



Convention on the Rights of the Child

Distr.: General
31 March 2020

Original: English
English, French and Spanish only

Committee on the Rights of the Child

List of issues prior to submission of the combined sixth and seventh periodic reports of Chile*

1. The State party is requested to submit in writing the information requested below (21,200 words maximum), if possible before 15 February 2021. The replies should take into consideration the Committee's recommendations contained in its concluding observations (CRC/C/CHL/CO/4-5) adopted on 2 October 2015. The Committee may take up all aspects of children's rights set out in the Convention and its Optional Protocols during the dialogue with the State party.

I. New developments

2. The Committee requests the State party to provide:

(a) Information on the adoption or reform of laws, policies and programmes, and any other type of measures taken, such as the creation or reform of institutions, significant for the implementation of the Convention, its Optional Protocol on the involvement of children in armed conflict and its Optional Protocol on the sale of children, child prostitution and child pornography;

(b) Any other information that the State party considers relevant in this regard and that is not covered in the replies to the questions below, including information on obstacles and challenges faced.

3. The Committee also requests the State party to provide information on how the planning, implementation, monitoring and evaluation of measures for achieving the Sustainable Development Goals integrate a child rights-based approach, including with regard to child participation and data collection, and how such measures promote the realization of children's rights under the Convention and its Optional Protocols.

II. Rights under the Convention and its Optional Protocols

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

Legislation

4. Please provide information on:

(a) The steps taken, as well as the challenges and obstacles faced, with regard to adopting a comprehensive law on children's rights in conformity with the Convention to replace the Juvenile Act of 1967;

* Adopted by the pre-sessional working group on 14 February 2020.



(b) The steps taken, as well as the challenges and obstacles faced, with regard to establishing an adequate legal framework for the child protection system to replace the National Service for Minors.

Allocation of resources

5. Please inform the Committee on the measures taken to:

(a) Establish a mechanism to monitor and evaluate the effectiveness of the allocation of resources for children;

(b) Ensure public participation, including of children, in the preparation of local and national budgets.

Data collection

6. Please inform the Committee about the implementation of the statistical information system on children and adolescents by the Children and Youth Observatory and the Ministry of Social Development and Family, as well as the effective use of the data generated by the system.

Independent monitoring

7. Please provide information on the human, technical and financial resources made available to the office of the ombudsperson for children, created in 2018, to implement its mandate effectively at the national and local levels.

Children's rights and the business sector

8. Please inform the Committee as to what extent the 2017 action plan on business and human rights establishes a regulatory framework for private businesses, in particular companies in the manufacturing and extractive sectors, to address their impact on the environment and children's health, and to what extent it provides for redress to children who are affected, particularly in Quintero and Puchuncaví. In this regard, please also inform the Committee about the measures taken to implement the Supreme Court's decision of 28 May 2019 regarding the adoption of measures to decrease air pollution and transfer the affected population to safe places.

B. General principles (arts. 2, 3, 6 and 12)

Non-discrimination

9. Please provide information on measures taken to address and eliminate discrimination against girls, indigenous children, children with disabilities, migrant children and lesbian, gay, bisexual, transgender and intersex children, particularly in accessing education and health services. Please provide information on the number of cases filed for discrimination against children under Law No. 20.609. Please inform the Committee as to how the draft law that would provide for "preventive identity checks", allowing the police to check the identity documents of children older than 14 years, will not discriminate against adolescents, particularly those from disadvantaged backgrounds. Please also provide information on the reported 70,317 preventive identity checks carried out on children under the age of 18 under Law No. 20.931 of 5 July 2016.

Best interests of the child

10. Please provide information on the development and dissemination to all relevant professional groups of procedures and criteria to determine and consistently apply the best interests of the child as a primary consideration in programmes and in administrative and judicial proceedings concerning children, in particular regarding parental custody, placement in alternative care, and migration and asylum procedures.

Respect for the views of the child

11. Please provide information on:

- (a) The measures taken to promote and ensure children's participation in the consultative process for the preparation of the new constitution;
- (b) The measures taken to recognize by law the right of the child to be heard in all matters concerning her or him, in particular education, health, family matters and justice;
- (c) The efforts made to review Law No. 20.500 of 2011 to recognize children's right to direct participation in associations and public administration matters;
- (d) The measures taken to establish formal structures for the participation of children in the development and implementation of local, regional and national policies concerning children.

C. Civil rights and freedoms (arts. 7, 8 and 13–17)**Freedom of association and peaceful assembly**

12. Please provide information about the development and application in practice of police protocols and procedures on dealing with public protests and the issuance of guidance to the police and the Prosecutor's Office on the detention of children, excessive use of force, and sexual harassment during peaceful demonstrations.

D. Violence against children (arts. 19, 24 (3), 28 (2), 34, 37 (a) and 39)**Torture and other cruel or degrading treatment or punishment**

13. Please inform the Committee about the measures taken to:

- (a) Promptly investigate cases of torture and other cruel or degrading treatment or punishment, including acts of sexual violence, perpetrated by police officers against children, promptly prosecute the accused and punish the perpetrators. Please provide information on the cases that occurred during public protests, including during the recent October 2019 demonstrations;
- (b) Implement the recommendations made in the report of Office of the United Nations High Commissioner for Human Rights on its mission to Chile, undertaken from 30 October to 22 November 2019;
- (c) Investigate all cases of violence against indigenous children, in particular Mapuche children, perpetrated by security forces, and to prosecute and duly punish the perpetrators;
- (d) Amend the Criminal Code to remove any statute of limitation for the crime of torture against children.

Freedom of the child from all forms of violence

14. Please provide information on:

- (a) The measures taken to explicitly prohibit corporal punishment against children in all settings and circumstances, and on the measures taken to raise awareness of the harmful effects of corporal punishment and about positive forms of child rearing, education and discipline;
- (b) The development of comprehensive strategies for the prevention of and intervention in all forms of violence, including domestic violence, violence in educational settings and gender-based violence, and sexual abuse of children, including in the home and by religious personnel of the Catholic church;
- (c) The establishment of a national database on all forms of violence;

(d) The provision of therapeutic services and support to child victims of violence, abuse and neglect;

(e) The measures taken to address violence committed by criminal groups, including the co-option of children by gangs and drug-trafficking networks.

Harmful practices

15. Please provide information on the measures taken to raise awareness of the negative consequences of child marriage with a view to ending this harmful practice. Please also provide information on the finalization and implementation of a rights-based health-care protocol for intersex children to ensure that no child is subjected to unnecessary surgery or treatment.

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

Family environment

16. Please inform the Committee about the measures taken to:

(a) Ensure that mothers and fathers share their parental responsibilities equally;

(b) Adapt labour policies and regulations to promote a better balance between professional and private life;

(c) Increase the provision of support services to families;

(d) Support parents while their children are in alternative care with a view to re-establishing parental care and ensuring that children in care have regular contact with their parents or caregivers, when in the child's best interests.

Children deprived of a family environment

17. Please provide information on the measures taken to:

(a) Ensure adequate safeguards and clear criteria for determining whether a child should be placed in alternative care, to periodically review the placement of children in alternative care and to monitor the quality of care;

(b) Promote foster care as a form of alternative care;

(c) Prevent deaths of and violence, including sexual violence, against children in alternative care;

(d) Promptly investigate cases of abuse against children deprived of a family environment, prosecute the accused and punish the perpetrators;

(e) Provide the human, technical and financial resources adequate to the effective functioning of the child protection system;

(f) Provide adequate redress to current and former child victims of institutional abuse;

(g) Implement any other recommendation made by the Committee in its inquiry report to Chile in 2018;

(h) Ensure that all the measures listed in (a) to (g) of the present paragraph are also applied to all children with disabilities in alternative care.

F. Children with disabilities (art. 23)

18. Please provide information about:

(a) The review of the National Plan on Disabilities undertaken to adequately address the rights of children with disabilities, including with regard to providing support

for parents and caregivers to prevent abandonment and collecting disaggregated data on the situation of children with disabilities;

(b) The preliminary results of the national policy for children and adolescents and the related action plan for 2018–2022 related to improving the situation of children with disabilities;

(c) The effectiveness of Law No. 20.422 in promoting the social inclusion of children with disabilities;

(d) The provision of appropriate health-care services for children with disabilities, including mental health care and other appropriate social services;

(e) The effective enforcement of the prohibition on sterilization of children with disabilities, particularly girls with disabilities, without their consent.

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

Health, mental health and health services

19. Please inform the Committee about the measures taken to:

(a) Ensure that all children up to age 18 have access to quality health services, including for mental health;

(b) Improve the diagnosis of attention deficit hyperactivity disorder in children, and decrease the use of psychostimulant drugs for its treatment;

(c) Address malnutrition, including obesity, among children;

(d) Address the root causes of suicide in children and to establish a 24-hour suicide-prevention helpline;

(e) Address the incidence of drug abuse among children, including abuse of tobacco, alcohol and illicit substances, and provide accessible and youth-friendly drug-dependence treatment and harm-reduction services;

(f) Ensure that children living in municipalities such as Quintero are no longer exposed to harmful substances, including sulfur dioxide, and that those who have been contaminated receive adequate health care.

Adolescent health

20. Please provide information on the measures taken to:

(a) Adopt a comprehensive sexual and reproductive health policy for adolescents, which includes increased access to contraceptives and prevention of unwanted or early pregnancies and sexually transmitted infections;

(b) Improve the quality of sexual education programmes for children and professional training for health professionals;

(c) Increase access to sexual and reproductive health services, including safe abortion and post-abortion services for all teenagers who may need it.

Standard of living

21. Please provide information on the measures taken to:

(a) Include all children up to the age of 18 years in the Chile Grows with You system;

(b) Address inequality in both urban and rural areas, in particular areas with a large indigenous population, and increase access to sanitation in rural areas;

(c) Ensure that children living in municipalities under decrees of water scarcity and agriculture emergency, such as Petorca, have regular access to safe drinking water of the highest standard in the State party.

Environmental health

22. Please provide information on the measures taken to progressively shift from carbon-based industries to sustainable and renewable energy sources, in particular in the communes of Iquique, Tocopilla, Mejillones, Huasco, Puchuncaví and Coronel.

H. Education, leisure and cultural activities (arts. 28–31)**Education, aims of education and human rights education**

23. Please inform the Committee about the measures taken to:

(a) Implement Law No. 20.845, to promote an egalitarian and inclusive education system, and to establish clear and known criteria for admission to educational institutions;

(b) Implement Law No. 21.040 and increase the allocation of resources to public schools to improve the quality of education, provide quality training to teachers and improve infrastructure to ensure that it is adequate and accessible, particularly for students with disabilities, paying particular attention to rural areas;

(c) Develop and implement a regulatory and monitoring framework for the private education sector that respects the principle of non-discrimination and promotes inclusion and respect for diversity;

(d) Ensure that education in all schools, public, semi-private and private, contributes to the development of the fullest potential of every child;

(e) Ensure that pregnant teenagers and adolescent mothers and fathers continue their education in mainstream schools;

(f) Decrease violence in schools and to develop children's competencies and practices for the peaceful resolution of conflicts, in particular regarding political issues;

(g) Ensure that the application of Law No. 21.128 on safe classrooms does not hinder the right to education of a child expelled from school and that the office of the ombudsperson for children is promptly notified by the Ministry of Education of any cases in which children are affected by the law;

(h) Prevent social protests from affecting the provision of education and to provide children studying at the Instituto Nacional General José Miguel Carrera with additional education modules to compensate for the periods that the National Institute was closed or affected by the 2019 social protests.

Rest, leisure, recreation and cultural and artistic activities

24. Please provide information on the measures taken to provide children, including children with disabilities and children in vulnerable situations, with accessible and inclusive sporting, recreational, leisure, cultural and artistic activities.

I. Special protection measures (arts. 22, 30, 32, 33, 35, 36, 37 (b)–(d) and 38–40)**Asylum-seeking, refugee and migrant children**

25. Please provide information on the measures taken to:

(a) Streamline the procedures for assessing asylum claims, taking into account the specific needs and rights of asylum-seeking children, as well as the principle of non-refoulement;

(b) Simplify and clarify the procedures and requirements for the granting of a “democratic responsibility visa” and to establish clear requirements under the resolution on the granting of safe conducts, adopted in August 2019, for those not meeting the criteria for a “democratic responsibility visa”;

(c) Ensure that refugee, asylum-seeking and migrant children enjoy an adequate standard of living and effective access to health, social services and education without discrimination;

(d) Adopt the draft law on migration and ensure that it makes direct reference to children's rights and recognizes the principle of non-refoulement;

(e) Implement a comprehensive plan for the social inclusion of migrants, including provisions for conducting awareness-raising campaigns to promote respect and inclusion.

Indigenous children

26. Please inform the Committee on the measures taken to:

(a) Respect the right to identity of indigenous children in accordance with their culture;

(b) Integrate an intercultural approach in policies and standards relating to indigenous children;

(c) Ensure that all indigenous children have access to health, education and basic social services, without discrimination;

(d) Stop all violence by security forces against indigenous children and their families, including in the context of development activities;

(e) Ensure that Law No. 18.314, on terrorism, is not applicable to acts carried out by indigenous children, in accordance with its article 1 (2), as modified by Law No. 20.519.

Economic exploitation, including child labour

27. Please provide information on the measures taken to:

(a) Prohibit child labour, including in the agricultural sector, in commerce and domestic labour, and to prevent the use of children in the production and trafficking of drugs;

(b) Improve the intersectoral registration system relating to the worst forms of child labour;

(c) Provide timely and adequate support to victims of child labour.

Children in street situations

28. Please inform the Committee about the measures taken to develop a national policy for the protection, recovery and reintegration of children in street situations, and to adapt the health, educational and social protection systems to their specific situation.

Administration of child justice

29. Please provide information on the measures taken to:

(a) Bring the specialized child justice system into line with the Convention, in particular articles 37 and 40, and to ensure that children are always separated from adults and that children in pretrial detention are separated from children serving a sentence;

(b) Establish diversion measures and increase the use of alternative measures to detention by prosecutors and judges, and to avoid pretrial detention;

(c) Improve the conditions of detention centres for children, ensuring access to education, health and professional training, and to ensure the physical security of the children in those centres;

(d) Establish independent, confidential and child-friendly complaints mechanisms for children deprived of their liberty.

Child victims and witnesses of crimes

30. Please inform the Committee about the measures taken to provide child victims and witnesses of crimes with adequate protection and rehabilitation services and to avoid revictimization during judicial proceedings.

J. Optional Protocol on the sale of children, child prostitution and child pornography

31. Please inform the Committee about the measures taken to:

(a) Amend the Criminal Code to define and criminalize the sale of children in accordance with articles 2 and 3 of the Optional Protocol on the sale of children, child prostitution and child pornography;

(b) Establish a comprehensive data collection system covering all areas of the Optional Protocol;

(c) Conduct training on the Optional Protocol for relevant professional groups and to disseminate the Optional Protocol to the public;

(d) Promptly investigate reports of offences covered by the Optional Protocol, to prosecute the accused and duly punish the perpetrators, and to provide adequate support and redress for child victims;

(e) Prevent and combat the sale and sexual abuse and exploitation of children committed online.

K. Optional Protocol on the involvement of children in armed conflict

32. Please inform the Committee about the measures taken to:

(a) Establish extraterritorial jurisdiction for crimes covered by the Optional Protocol on the involvement of children in armed conflict;

(b) Establish a mechanism for the early identification of children who may have been recruited for or used in hostilities abroad and to provide support and assistance to them;

(c) Prohibit the sale of arms to countries where children have been known to be, or may potentially be, recruited for or used in hostilities.

III. Statistical information and data

33. The statistical information and disaggregated data provided by the State party should cover the period since the consideration of its previous reports on the implementation of the Convention and its Optional Protocols. The data should be disaggregated by age, sex, ethnic origin, national origin, geographical location and socioeconomic status.

34. The provision of tables presenting trends over the reporting period is recommended. Explanations of or comments on significant changes that have taken place over the reporting period should also be provided.

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

35. Please provide information on the budget lines regarding children and social sectors by indicating the amount and the percentage allocated to each budget line in terms of the total national budget.

B. Definition of the child (art. 1)

36. Please provide data, disaggregated as described in paragraph 33 above, on:

(a) The number and proportion of children under 18 years of age living in the State party;

(b) The number of children under 18 years of age who were married in the State party or whose marriage abroad was recognized by the State party.

C. Civil rights and freedoms (arts. 7, 8 and 13–17)

37. Please provide data, disaggregated as described in paragraph 33 above, on the number of:

(a) Stateless children;

(b) Children born to immigrant parents in an irregular situation who have been granted Chilean nationality;

(c) Investigations into cases – most dating back to the dictatorship – of removal and/or irregular adoption of children, and the number of victims who have recovered their identity.

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

38. Please provide data, disaggregated as described in paragraph 33 above, on:

(a) The number of cases of torture and other cruel or degrading treatment or punishment perpetrated against children by security forces that have been reported to the authorities, investigated and prosecuted, and on the sanctions imposed on perpetrators, disaggregated by type of offence;

(b) The number of cases of violence against children, including corporal punishment, that have been reported to the authorities, investigated and prosecuted, and on the sanctions imposed on perpetrators, disaggregated by type of offence;

(c) The number and type of protective measures provided for child victims of violence, in particular domestic violence;

(d) The number of reported cases of violence, including sexual violence, against children with disabilities, the number of investigations and prosecutions carried out and the sentences issued;

(e) The number of intersex children who have undergone surgery or treatment related to their sexual characteristics.

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

39. Please provide data, disaggregated as described in paragraph 33 above, on

(a) The number and proportion of families and children receiving economic and other types of support services;

(b) The number of children in institutional care and the average number of days of stay;

(c) The number of children in family- and community-based care;

(d) The number of children adopted domestically and internationally;

(e) The number of children born through surrogate motherhood arrangements made abroad;

- (f) The number of children who have incarcerated parents.

F. Children with disabilities (art. 23)

40. Please provide data, disaggregated as described in paragraph 33 above, and by type of disability, on the number of:

- (a) Children with disabilities;
- (b) Children with disabilities living with their families;
- (c) Children with disabilities living in institutional care and in family- and community-based care;
- (d) Children with disabilities who have been sterilized.

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

41. Please provide data, disaggregated as described in paragraph 33 above, on:

- (a) The number of paediatric and mental health services and professionals specialized in young children and adolescents, disaggregated by municipality;
- (b) The number and proportion of children living below the poverty line and in extreme poverty;
- (c) The number and proportion of children living in communities under decrees of water scarcity and agriculture emergency;
- (d) The number of children contaminated by harmful substances, such as sulfur dioxide, and the number of those who have received treatment.

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

42. Please provide data, disaggregated as described in paragraph 33 above, on the number of:

- (a) Children attending public, semi-private and private schools;
- (b) Children affected by the safe classroom policy and the number of cases reported in a timely manner to the office of the ombudsperson for children;
- (c) Children with disabilities enrolled in inclusive education and in separate schools.

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

43. Please provide data, disaggregated as described in paragraph 33 above, and by country of origin and accompanied or unaccompanied status, on:

- (a) The number of asylum-seeking, refugee and migrant children;
- (b) The number of asylum-seeking, refugee and migrant children who are in detention, including in transit centres;
- (c) The number of children who have been deported from the State party;
- (d) The number of asylum-seeking, refugee and migrant children who are attending school and who have access to health care;
- (e) The estimated number of undocumented children, and the number of those children who have access to education, health-care and welfare services.

44. Please provide data, disaggregated as described in paragraph 33 above, on the estimated number of children engaged in exploitative labour.

45. Please provide data, disaggregated as described in paragraph 33 above, on the estimated number of children in street situations and the number of those who have access to protection services.

46. Please provide data, disaggregated as described in paragraph 33 above, and by type of crime, on the number of:

(a) Children in detention, including in pretrial detention, in facilities such as police cells and prisons, and the average number of days of stay;

(b) Children referred to diversion and non-custodial sentencing options;

(c) Children detained together with adults and the average number of days of stay.

47. Please provide data, disaggregated as described in paragraph 33 above, on the number and proportion of child victims and witnesses of crimes who have access to protection and rehabilitation services.

J. Optional Protocol on the sale of children, child prostitution and child pornography

48. Please provide data, disaggregated as described in paragraph 33 above, on:

(a) The number of reported cases of the sale of children, child prostitution, child pornography and trafficking of children;

(b) The number of such cases that have been investigated, the number of persons prosecuted and the number of perpetrators sanctioned, disaggregated by the type of crime and the sanction served;

(c) The number of child victims of such crimes who have been provided with recovery assistance or compensation.

K. Optional Protocol on the involvement of children in armed conflict

49. Please provide data, disaggregated as described in paragraph 33 above, on:

(a) The number of asylum-seeking, refugee and migrant children entering the State party from areas in which children may have been recruited for or used in hostilities;

(b) The number of those children who benefit from physical and psychological recovery and social reintegration measures.
