



Convention on the Rights of the Child

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Committee on the Rights of the Child

Consideration of reports submitted by States parties under article 12, paragraph 1, of the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography

Reports of States parties due in 2004

Democratic Republic of the Congo*

[Date received: 15 March 2013]

* The present document has been issued without formal editing.



Abbreviations

AFDL	Alliance des Forces de Libération du Congo
AVIFEM	Agence Nationale Interministérielle pour la lutte contre les Violences faites à la Femme (National Interministerial Agency to Combat Violence against Women)
CAJEM	Centre for Legal and Psychosocial Assistance for Mothers and Children
CGF	Congolese franc
CPA	Child Protection Act
ICC	International Criminal Court
GDP	Gross Domestic Product
GPRSP	Growth and Poverty Reduction Strategy Paper
HIPC	Heavily Indebted Poor Countries
ILO	International Labour Organization
JTLF	Journal Télévisé Lingala Facile
LIZADEEL	Ligue de la Zone Africaine pour la Défense des Droits des Enfants et des Elèves
UNDP	United Nations Development Programme
UNFPA	United Nations Fund for Population Activities
UNICEF	United Nations Children's Fund

Introduction

1. The Democratic Republic of the Congo ratified the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography, hereinafter referred to as “the Protocol”, by Legislative Decree No. 003/01 of 28 March 2001, published in the Official Gazette, special issue of September 2001, page 23. The initial report should have been submitted to the Committee on the Rights of the Child no later than 2004 pursuant to article 12, paragraph 1, of the Protocol.
2. The Government of the Democratic Republic of the Congo, aware of the delay in fulfilling its international obligations since the ratification of the Protocol, is determined to engage in a cooperative and constructive dialogue with the Committee on the commitment assumed under the Convention and the Protocol.
3. This initial report was prepared by the Inter-Ministerial Committee for the Preparation of Initial and Periodic Reports on Human Rights and for the Monitoring of Implementation of Instruments ratified by the Democratic Republic of the Congo, pursuant to document CRC/OP/SA/1 of 4 April 2002, which provides guidelines regarding initial reports to be submitted by States parties in accordance with the Protocol.
4. In light of the state of war prevailing in the Democratic Republic of the Congo since 1996, and in the present post-conflict and recovery period, this report presents the range of measures undertaken to strengthen child protection through the implementation of favourable constitutional, legislative, administrative and judicial provisions and through a prohibition in force since 2006 on the sale of children, child prostitution and child pornography.
5. The present report has been organized according to the articles and topics of the Protocol.

Part One General information

I. Territory and population

A. Territory

6. The Democratic Republic of the Congo is a central African country, situated on both sides of the Equator. It is bordered on its north side by the Central African Republic and Sudan, in the east by Uganda, Rwanda, Burundi and the United Republic of Tanzania, in the south by Zambia and Angola and in the west by the Atlantic Ocean, the Cabinda enclave and the Republic of the Congo.
7. The Democratic Republic of the Congo is a vast country the size of a continent, with a total area of 2,345,409 km²; the land is mostly flat. In the centre is a broad basin (cuvette), with an average altitude of 230 m; it is covered in equatorial forest interspersed with numerous marshy areas. This central basin is bordered by layered plateaux, except in the east, where mountains of volcanic composition predominate, reaching an average height of over 1,000 m.
8. Traversed by the Equator, the Democratic Republic of the Congo has a hot, humid climate with an average temperature of 25°C and abundant, regular rainfall.

9. Rainfall and temperatures gradually decline as one moves eastward. The year is divided into two seasons: a dry season of almost four months, and a long rainy season lasting approximately eight months.

10. The country has an extensive network of rivers. The Congo River crosses the country from south-east to north-west before emptying into the Atlantic Ocean; it is 4,700 km long with a flow rate exceeded only by the Amazon. Fed by several river tributaries, the Congo is navigable along most of its length.

11. The soil and subsoil offer a plentiful variety of agricultural and mineral resources.

B. Population

1. Demographic characteristics

12. In 1956 the population was estimated at 12,768,705 inhabitants. By 1960 it had increased to 14,106,666; the administrative census of 1970 gave a figure of 20,700,500, and the scientific census conducted on 1 July 1984 established the population at 30,731,000. On the basis of projections by specialized bodies, in particular the United Nations Population Fund, the population was estimated at 43,000,000 in 1995, 47,500,000 in 1999 and 52,099,000 in 2000, with a projection of 57,589,779 for 2001. But according to information provided by the Central Bank of the Congo, it was 59,700,000 in 2005 and 61,487,300 in 2006. (Central Bank of the Congo Statistical Abstracts, No. 52/2005 and 2006, p. 1). It was estimated at about 68 million at the beginning of 2010 (68,692,542 inhabitants, *Le monde dans ma poche*, Afrique espoir, 2010 edition),

13. The Democratic Republic of the Congo is one of the most populous African countries. The age and sex structure shows a broad-based pyramid with concave flanks and a narrow summit, reflecting a young population. The age and sex structure shows a broad-based pyramid with a wide base, concave flanks and a narrow summit, reflecting a young population. In 1997, 25.9 million inhabitants were under 18. The natural population growth rate is 3.4 per cent (1990–1998) with a fertility rate of 6.4. Life expectancy at birth fell from 45 years in 1970 to 41.4 years in 2002 (UNDP World Human Development Report 2004). According to place of residence, the population is composed as follows:

a) Since 1993, a population which is 60 per cent rural against 40 per cent living in urban centres with 5,000 or more inhabitants; the degree of concentration in urban centres varies considerably from province to province;

b) A low proportion of the population in urban areas in Maniema, compared with a high proportion in Kinshasa (a tenth of the entire population);

c) Rapid growth of the urban population (7.8 per cent), the concentration of 28 per cent of the entire urban population in Kinshasa, and a high rate of emigration from rural areas;

d) The uneven geographical distribution of the population – the highest population densities are in the city of Kinshasa and the provinces of Bas-Congo, Nord-Kivu and Sud-Kivu.

2. Ethnic groups

14. The population is divided into over 450 tribes, which can be classified in major groups, each firmly established in a particular territory. The Luba or Baluba in south central Congo (18 per cent) outnumber the Kongo living in Bas-Congo (16 per cent). The north-west region is inhabited by the Mongo (13.5 per cent) and the Zande (6.1 per cent), the north by the Mangbetu, the Hema, the Lendu and the Alur (3.8 per cent). The east is inhabited by the Nande, the Hunde, the Bashi, the Bafulero, the Tutsi and many other ethnic

groups. The Chokwe and Lunda are found along the frontier with Angola. The pygmies (less than 0.5 per cent) are found in Equateur and Orientale provinces.

3. Languages

15. In the Democratic Republic of the Congo the official language is French. Some 250 languages and dialects are in use. Of these, 90 per cent are of Bantu origin. Four languages are referred to as “national languages”, namely:

- Swahili (40 per cent) in the east, in Nord-Kivu, Sud-Kivu, Katanga, Maniema and Orientale province;
- Lingala (27.4 per cent) in Kinshasa, the capital, and the neighbouring region, and in Equateur and in Orientale provinces;
- Kikongo (17.6 per cent) in Bas-Congo and Bandundu;
- Chiluba (15 per cent) in the provinces of Kasai-Oriental and Kasai-Occidental.

16. It should be noted that in the northern part of the country many spoken languages belong to the Niger-Congo family (Ubangi subgroup) and the Nilo-Saharan family (central Sudanic group and Nilotic subgroup).

4. Religion

17. The Democratic Republic of the Congo is a secular State. Nevertheless, five traditional religious denominations are present: Catholic, Kimbanguist, Protestant, Orthodox and Muslim. There are also several independent religions within the country, and some animists.

II. Socio-economic indicators

A. The social situation

18. The weakening of the social fabric began in the 1970s. It was aggravated by a series of unfortunate events, namely the 1973 Zairianization campaign and the two outbreaks of looting in September 1991 and February 1993, in addition to the two wars of 1996–1997 and 1998–2002. These adverse factors led to a contraction of production, widespread unemployment and extreme poverty. The social sectors worst affected by this crisis are health, education, agriculture and the road network.

B. The economic situation

19. The economy is characterized by a structural imbalance in the output of goods and services, and economic development has been patchy. From 1983 to 1989 the situation was relatively stable. Between 1990 and 1996 the country went through a period of crisis in which the main economic equilibria were disrupted, resulting in inflation and rapid currency depreciation.

20. This situation, a characteristic feature of the later years of the Second Republic, was primarily attributable to lax financial and budgetary management, together with unplanned expenditure met by printing money.

21. From May 1997 to July 1998, with the advent of the Alliance des Forces de Libération du Congo regime, there was a marked improvement in the principal economic indicators, particularly in terms of price levels, currency and public finances. This induced the Government to launch a new currency, the Congolese franc, which enjoyed an encouraging exchange rate against the major foreign currencies.

22. Unfortunately, since 2 August 1998 the principal economic equilibria have once again been disrupted as a result of the attack launched against the country by the Rwanda-Burundi-Uganda coalition, supported by certain multinationals, which had been joined by rebel movements. The war gave rise to hyperinflation, with serious repercussions for the purchasing power of the population, which was reduced to poverty. At the same time there was a significant fall in gross domestic product (3.15 per cent). The rate of inflation was 656.8 per cent in 1996, 13.7 per cent in 1997 and 2.2 per cent in July 1998.

23. In the absence of any revival of production and as a result of the climate of war, the results achieved in 1998 were at risk. Thus, the inflation rate rose from 196.3 per cent in September 1999 to 489 per cent in December 1999. This continued until February 2001, when President Joseph Kabila came to power. He adopted vigorous economic and monetary measures and liberalized the political situation, by relaunching the political negotiations known as the Inter-Congolese Dialogue which began in Lusaka after the ceasefire of 10 July 1999. Of particular note among these measures were the stabilization of public finances and the freeing of the exchange rate, which prompted a resumption of cooperation with the Bretton Woods institutions.

24. The Inter-Congolese Dialogue led to the signing of the Global and All-inclusive Agreement on 17 December 2002 in Pretoria, South Africa. A Constitution was adopted on the basis of this political agreement and promulgated on 4 April 2003, facilitating the inauguration of a transitional Government including all the belligerent parties, the political opposition and civil society. After this turbulent period, the Democratic Republic of the Congo continued efforts to democratize the country. In 2005, the Congolese people approved the Referendum to endorse the new Constitution of the Republic. According to information from the Central Bank of the Congo, the economic situation is as follows:

- Investment: with macro-economic fundamentals brought under control since 2001, and, as this trend is consolidated through the gradual return to peace, the investment sector has been gradually improving.

Under its medium-term plan, the Government aims to achieve strong, lasting and sustained growth in a stable macroeconomic environment, in accordance with strategic guidelines spelled out in the Growth and Poverty Reduction Strategy Paper (GPRSP).

- GDP growth rate: 5.4%;
- GDP deflator: 23.4%;
- Average inflation rate: 24.7%;
- Inflation rate at end of period: 15.0%;
- Average exchange rate: 950.6 CGF/USD;
- Exchange rate at end of period: 1,008.5 CGF/USD;
- Nominal GDP (in billions of CGF) 11,366;
- Revenue: 5,607.5 billion CGF (5,300.4 billion CGF for the Central Government and 307.1 billion CGF for the Provinces).

25. The following tables show gross domestic product, inflation rates and exchange rates between 2001 and 2010.

a) Gross domestic product

1996	1997	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
-1.1%	-5.4%	-1.7%	-4.3%	-6.9%	-2.1%	3.5%	5.6%	6.8%	6.6%	5.6%	6.3%	6.2%	2.7%	5.4%

b) Inflation rate

2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
135.1%	15.8%	4.4–6%	9.2%	1.6%	8.00%	12%	8.00%	11.5%	15.00%

c) Exchange rate

<i>\$1. CGF exchange rate</i>	2002	2003	2004	2005	2006	2007	2008	2009	2010
Indicative rate	382.14	372.52	444.08	431.00	503.4	560.00	500.00	902.7	950.60
Market rate	380.26	372.76	453.09	434.31	513.4	590	611	903	1 008.5

As for external debt, when the country recently reached the Heavily Indebted Poor Countries (HIPC) completion point, it was granted a cancellation of 90 per cent of its external debt, or approximately 10 billion US dollars. This significant debt reduction has restored the country's borrowing capacity, and has been a contributing factor in its economic growth.

26. On 30 September 2010, the country's outstanding external debt stood at 3 billion US dollars, meaning that 90 per cent of the debt of 13 billion US dollars accumulated since the end of the Second Republic had been forgiven.

a) Political situation

27. Following independence on 30 June 1960, the Democratic Republic of the Congo underwent a period of political instability, marked by secessions and rebellions over much of its territory. This unrest prompted the National Congolese Army (ANC) to take power on 24 November 1965, under the leadership of Colonel Joseph-Désiré Mobutu.

28. Colonel Mobutu instituted a single-party regime, which remained in place until 24 April 1990, the projected date for the restoration of a multiparty system. The leading members of Congolese society joined together in the Sovereign National Conference to debate the future of the nation and to establish democratic institutions that would guarantee citizens the enjoyment of fundamental rights and national development. However, the democratization process proved unexpectedly lengthy, and on 17 May 1997 the AFDL took power and dissolved the institutions that had arisen from the Sovereign National Conference held in Kinshasa in 1992.

29. A new two-year transitional phase was announced pending the holding of elections. However, the war of 2 August 1998 disrupted the political agenda, and diverted all attention from it. This situation lasted until the conclusion of the Sun City Global and All-Inclusive Agreement, and the promulgation of the new transitional Constitution on 4 April 2003.

30. At that time, articles 64 and 154 of that Constitution provided for a special regime consisting of political institutions and democracy-sustaining institutions.

a) The political institutions were:

- A President of the Republic, whose executive authority was shared with four Vice-Presidents;
- A transitional Government comprising the belligerents, the political opposition and civil society;
- A bicameral Parliament: the National Assembly and the Senate; and
- Courts and tribunals;

b) The democracy-sustaining institutions had the mandate of guaranteeing neutrality and impartiality in the exercise of free, democratic and transparent elections, ensuring the neutrality of the media, consolidating national unity on the basis of genuine reconciliation between the Congolese peoples, promoting and protecting human rights, and fostering the practice of moral and civic values. These institutions were:

- The Independent Electoral Commission;
- The National Human Rights Monitoring Centre;
- The Media Authority;
- The Truth and Reconciliation Commission;
- The Ethics and Anti-Corruption Commission.

31. The transitional Constitution had, in article 196, prescribed a duration of 24 months for the transition with an extension of six months renewable only once for the purpose of holding elections. The post-transition period is governed by the new Constitution promulgated on 18 February 2006 after being adopted by referendum in December 2005, but the institutions set up by the transitional Constitution remained operational up to the effective installation of the corresponding institutions provided for by the Constitution of 18 February 2006 and performed their mandate in conformity with the provisions of the transitional Constitution, leading the country to the general elections organized in July and November 2006 and the presidential and national legislative elections in January 2006 and February 2007. The provincial and local elections have not yet been held, owing to budgetary constraints.

32. The Constitution of 18 February 2006 provided for a highly decentralized State with central, provincial and democracy-supporting political institutions.

a) The central institutions comprise:

- The President of the Republic;
- The bicameral Parliament: National Assembly and Senate;
- The Government, led by a Prime Minister, Head of Government, accountable to Parliament;
- The courts and tribunals;

b) The provincial institutions comprise:

- The provincial Assembly;
- The provincial Government;

c) The democracy-supporting institutions comprise:

- The National Independent Electoral Commission, replacing the Independent Electoral Commission;
- The Audiovisual and Communications Council, replacing the Media Authority.

These institutions have the mandate of guaranteeing and ensuring the regular holding of elections and of referendums, the freedom and protection of the press and all the mass media.

a. General legal framework for the protection of the rights of the child

33. Since the presentation of its initial report to the Committee, the Democratic Republic of the Congo has continued its efforts to strengthen the legal framework for the protection of the rights of the child. Accordingly, it has ratified new conventions, in particular:

- The Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict (12 November 2001);
- The Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography (28 March 2001);
- The African Charter on the Rights and Welfare of the African Child (28 March 2001);
- ILO Convention No. 138 concerning the minimum age for admission to employment (28 March 2001) published in the Official Gazette, special issue, September 2001, p. 141;
- ILO Convention No. 182 concerning the prohibition and immediate action for the elimination of the worst forms of child labour (28 March 2001) published in the Official Gazette, special issue, September 2001, p. 156;
- The Rome Statute of the International Criminal Court (30 March 2002), published in the Official Gazette, special issue, 5 December 2002;
- The Convention of 9 December 1948 on the Prevention and Punishment of the Crime of Genocide (the Democratic Republic of the Congo acceded to the Convention on 31 May 1972), published in the Official Gazette, special issue, 5 December 2002.

34. Internally, national Congolese legislation has also undergone important changes, through the adoption of the following laws, which have an impact upon the protection of the rights of the child:

- Constitution of 18 February 2006;
- Decree of 6 December 1950 on child offenders;
- Framework Law No. 86-005 of 21 December 1986 on education;
- Act No. 87-010 of 1 August 1987 promulgating the Family Code;
- Act No. 023/2002 of 18 November 2002 promulgating the Code of Military Justice;
- Act No. 015/2002 of 16 November 2002 promulgating the Labour Code;
- Act No. 04/024 of 12 November 2004 concerning nationality;
- Act No. 04/023 of 12 December 2004 on the general organization of defence and of the Congolese armed forces;
- Act No. 06/018 of 20 July 2006 amending and supplementing the Decree of 30 January 1940 promulgating the Criminal Code (Act on sexual violence);
- Act No. 06/019 of 20 July 2006 amending and supplementing the Decree of 6 August 1959 promulgating the Code of Criminal Procedure (Act on sexual violence);
- Act. No. 96-002 of 22 June 1996 on arrangements for the exercise of freedom of the Press;
- Act. No. 09/001 of 10 January 2009 on the protection of children;

- Act No. 08/011 of 14 July 2008 on the protection of the rights of persons living with HIV/AIDS and of affected persons;
- Act No. 04/017 of 30 July 2004 on the organization, functions and operation of the Media Authority.

35. It should, moreover, be recalled that the Democratic Republic of Congo has a monistic legal regime. International agreements and treaties to which it has acceded or which it has ratified take precedence over domestic laws. Article 215 of the Constitution of 18 February 2006 provides that: “All duly concluded treaties and agreements shall, upon publication, take precedence over legislation subject, in the case of each treaty or agreement, to its implementation by the other party.”

36. Article 153 (4) of the same law formally provides, for the first time, for the direct application of international conventions by judicial organs, thus confirming their superior status, as it states: “Courts and tribunals, civil and military, shall apply duly ratified international treaties, laws, regulatory enactments (...).”

37. The Democratic Republic of the Congo also follows United Nations rules and principles with regard to the protection of the rights of the child, namely:

- United Nations Guidelines for the Prevention of Juvenile Delinquency (Riyadh Guidelines);
- United Nations Standard Minimum Rules for the Administration of Juvenile Justice (Beijing Rules);
- United Nations Rules for the Protection of Juveniles Deprived of Their Liberty.

38. The Democratic Republic of the Congo has also made headway with regard to institutions. In recent years, public structures entrusted with promoting and protecting human rights have been created, notably the National Independent Electoral Commission (CENI) and the Audiovisual and Communications Council mentioned in the Constitution of 18 February 2006 (arts. 211 and 212).

39. The National Independent Electoral Commission, which replaced the Independent Electoral Commission, is a democracy-supporting structure created by Organic Law No. 10/013 of 28 July 2010. It is a permanent public authority enjoying legal status, responsible for organizing democratic, free and transparent elections in a completely independent, neutral and impartial manner. In this capacity, it organizes and manages pre-electoral, electoral and referendum operations, including voter identification and registration, preparation and publication of electoral lists, voting, counting of votes, centralization, announcement of provisional results and transmission of these results to the jurisdiction competent to announce the final results.

40. The Constitution of the Democratic Republic of the Congo specifically provides, in article 222, for the creation of other institutions designed to protect democracy, as a guarantee of respect for human rights.

41. For example, the National Human Rights Commission will replace the National Human Rights Monitoring Centre which existed during the transitional period. For this purpose, in July 2008 the Senate adopted a proposed organic law on the Commission reflecting the Paris Principles. This text is currently before the lower house of Parliament for adoption. The Commission will be an advisory body with legal status, operating independently from other institutions, with responsibility for the promotion and protection of human rights. It will assist the Government by providing advice, proposals and recommendations in the areas of human rights, international humanitarian law, humanitarian activity and respect for fundamental guarantees of the exercise of public freedoms, as well as in all matters of general importance within its sphere of competence.

42. The organization of the Ministry of Justice and Human Rights is set out in Ordinance No. 08/073 of 24 December 2008.

43. As regards human rights, the Ministry's mission is:

a) To promote and protect the fundamental human rights of Congolese and foreign persons residing in the territory of the Democratic Republic of the Congo and to help them to know their rights and to assert them in all circumstances;

b) To examine, through appropriate mechanisms, cases of flagrant violations of human rights, without displacing the role of courts and tribunals or administrative procedures established by law; it intercedes with administrative and judicial authorities with a view to redressing injuries to rights of citizens;

c) To advise the Government on the promotion and protection of human rights. In this connection, it verifies the consistency of national law and government action with the international commitments assumed by the Democratic Republic of the Congo;

d) To manage all activities pertaining to the promotion and protection of human rights throughout the national territory in conformity with national and international regulations concerning human rights;

e) To cooperate with the United Nations, the African Union, and other international, regional and national institutions competent in the sphere of the promotion and protection of human rights.

44. In connection with this mission, by decision 013/MDH/CAB/MBK/0005, of 13 December 2001, the Ministry created the Inter-Ministerial Committee for the Preparation of Initial and Periodic Reports on Human Rights and for the Monitoring of Implementation of Instruments ratified by the Democratic Republic of the Congo.

45. As part of the implementation of the Government's policy of promotion and protection of the rights of the child, the Ministry of Gender, Family and Children created the National Children's Board on 8 April 2003. The Board was decentralized in 2003 by the creation of local Boards for the promotion and protection of children's rights (Decision MIN.AFF.SOC/CABMIN/004/2003 of 8 April 2003). These local boards in communes and neighbourhoods provide a neighbourhood forum where violations of children's rights can be reported. Their members come from various walks of life: public institutions, civil society, judicial police officers, social educators, and children themselves.

46. A National Commission responsible for preparation and follow-up of the universal periodic review of the Democratic Republic of the Congo (the UPR/Democratic Republic of the Congo Commission) was established by Decree of the Prime Minister (Decree No. 09/36 of 12 August 2009 on the establishment, organization and operation of the National Commission for Preparation and Follow-up of the Universal Periodic Review of Human Rights in the Democratic Republic of the Congo).

47. The duties of this Commission include follow-up of implementation of various recommendations made by the Human Rights Council and accepted by the Government when the above-mentioned report was approved in March 2010.

48. The national report on the situation of human rights was submitted by the Government on 1 September 2009 and approved by the Human Rights Council on 18 March 2010.

49. Non-State actors, including associations, trade unions, media and political parties, are also actively involved in the promotion and protection of human rights. Human rights NGOs base their work on the Act concerning non-profit entities and entities serving the public interest (Act No. 04-2001 of 20 July 2001 containing general provisions applying to

non-profit entities and entities serving the public interest, published in the Official Gazette of 15 August 2001, p. 7). In December 2000, there were 424 Congolese NGOs, including both human rights NGOs and development NGOs.

Part Two

Implementation of the Protocol

Articles 1, 2 and 3

Prohibition of the sale of children, child pornography and child prostitution

50. Since the ratification of the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography, the Democratic Republic of the Congo has continued its efforts to enhance and overhaul its legal framework by adopting texts concerning the protection of the rights of children, including:

- Constitution of 18 February 2006;
- Act No. 06/018 of 20 July 2006 amending and supplementing the Decree of 30 January 1940 promulgating the Congolese Criminal Code (arts. 162, 169–184);
- Act No. 06/019 of 20 July 2006 amending and supplementing the Decree of 6 August 1959 promulgating the Congolese Code of Criminal Procedure;
- Act No. 09/001 of 10 January 2009 concerning the protection of children (arts. 162, 169–175, 177–184).

51. Article 162 of Act No. 09/001 of 10 January 2009 concerning the protection of children stipulates that the trafficking or sale of children is punishable by ten to twenty years' imprisonment and a fine of five hundred thousand to one million Congolese francs.

52. The same Act defines the terms used in the Protocol as follows:

1. Child trafficking: the recruitment, transportation, transfer, harbouring or receipt of children by means of the threat of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over a child, for the purpose of exploitation.

2. Sale of children: any act or any transaction whereby a child is transferred by any person or group of persons to another for remuneration or any other consideration.

3. Procuring of a child: offering, obtaining, providing, procuring or using a child for sexual purposes for remuneration or any other consideration.

4. Child pornography: any representation, by whatever means, of a child engaged in real or simulated explicit sexual activities or any representation of the sexual parts of a child for primarily sexual purposes.

5. Pedophilia: any sexual attraction of an adult or adolescent to a child, including indecent assault, sexual relations, eroticism, pornography, sexual abuse and rape.

53. As regards the sanctions applicable to these offences, aggravating or mitigating circumstances as well as the statute of limitations, it should be noted that the trafficking or sale of children is punishable by 10 to 20 years' imprisonment and a fine of 500,000 to 1,000,000 CGF (art. 162 of Act No. 09/001 of 10 January 2009 on the protection of children).

54. The new Labour Code of 2002 (Act No. 015/2002 of 16 October 2002) raised the minimum age of admission to employment from 14 to 16. It prohibits all of the worst forms of child labour, taking its cue from article 3 of ILO Convention No. 182 (1999) concerning the prohibition of the worst forms of child labour and provides for immediate action with a view to their elimination.

55. Pursuant to article 3 (2) of the Code, the term “worst forms of child labour” includes, in particular:

- a) All forms of slavery or practices similar to slavery, such as the sale and trafficking of children, debt bondage and serfdom and forced or compulsory labour, including forced or compulsory recruitment of children for use in armed conflict;
- b) The use or offering of a child for prostitution, for the production of pornography, for pornographic performances or for obscene dancing;
- c) The use or offering of a child for illicit activities, in particular for the production and trafficking of drugs;
- d) Work which, by its nature or the circumstances in which it is carried out, is likely to harm the health, safety or morals of children.

56. Article 137 of the Labour Code provides that labour inspectors may require a medical examination of children, women and persons with disabilities, in order to check whether the work assigned to them exceeds their abilities. Such examinations shall be mandatory at the request of the persons concerned. Children, women or disabled persons shall not be kept in employment which is found to be beyond their abilities and must be assigned to a suitable job. If that is impossible, the contract must be rescinded at the initiative of the employer, with notice pay.

57. As regards aggravating circumstances, articles 182 to 184 of Act No. 09/001 of 10 January 2009 on the protection of children stipulate harsher sentences for the following persons: the father, mother, stepfather, stepmother or any other persons exercising parental authority (article 182: procuring of a child is punishable by five to twenty years’ imprisonment but the sentence is ten to twenty-five years if the child is procured by the father, mother, stepfather, stepmother, guardian or any person exercising parental authority. Procuring of a child is offering, obtaining, providing, procuring or using a child for sexual purposes for remuneration or any other form of consideration)

58. Article 183 stipulates that sexual slavery of a child is punishable by ten to twenty years’ imprisonment and a fine ranging from 800,000 to 1 million Congolese francs. Sexual slavery is the exercise by a person of one or all of the powers assimilated to ownership of a child, particularly by detaining or depriving a child of freedom or by buying, selling, lending or bartering a child for sexual purposes and forcing the child to perform one or more acts of a sexual nature. Article 184 states that sentencing of the father, mother, stepfather, stepmother or any persons exercising parental authority over the child for an offence specified in this section may be accompanied by forfeiture of parental authority, in accordance with the provisions of the law.

59. As regards child prostitution, article 173 of the Child Protection Act states “Any person committing *de facto* an immoral act by encouraging, facilitating or promoting debauchery or corruption of children in order to satisfy the passions of another person shall be liable to three to five year’ imprisonment and a fine ranging from 5,000 to 1 million Congolese francs; the penalty shall be ten to twenty years’ imprisonment and a fine ranging from 200,000 to 400,000 Congolese francs, if the child is under ten years of age; if the offence was committed by the father, the mother, the stepfather, the stepmother, the guardian or any person exercising *de jure* or *de facto* authority or guardianship over the child”.

60. Incitement to debauchery is facilitating, encouraging or promoting the debauchery of a child. Article 182 states that “Procuring of a child shall be punishable by five to twenty years’ imprisonment.

- The penalty shall be increased to ten to twenty-five years if the procurer of a child is the father, mother, stepfather, stepmother, guardian or any person exercising parental rights.
- Procuring of a child is offering, obtaining, providing, procuring or using a child for sexual purposes for remuneration or any other consideration.”

61. When there are aggravating circumstances, the judge also orders the confiscation of the materials concerned and, in the case of the father, mother, stepfather, stepmother, guardian and any person exercising *de jure* or *de facto* authority over the child, a harsher sentence is applied (CPA, article 178: encouragement of sexual exhibitionism by a child is punishable by five to ten years’ imprisonment and a fine of 200,000 to 600,000 Congolese francs).

- The penalties are increased to five to fifteen years’ imprisonment and a fine of 200,000 to 1 million Congolese francs, if the father, mother, stepfather, stepmother, guardian or any person exercising *de jure* or *de facto* authority over the child is providing the encouragement.
- Sexual exhibitionism is displaying certain private body parts and/or making gestures of a sexual nature in public.

62. Congolese legislation (arts. 24 to 30 of the Criminal Code) draws a distinction between common law offences and international crimes but there is no statutory limitation for either of the two types of offence mentioned above.

63. In addition to the offences listed in article 3 of the Optional Protocol, Congolese legislation criminalizes the following acts.

64. Pedophilia (art. 169 of the Child Protection of Act): Pedophilia means any sexual attraction of an adult or an adolescent to a child, including indecent assault, sexual relations, eroticism, pornography, sexual abuse and rape.

65. Rape of a child (art. 170 of the Child Protection Act) is punishable by seven to twenty years’ imprisonment and fine of 800,000 to 1 million Congolese francs. The minimum penalty is doubled if the rape is committed by:

- Ascendants of the child on whom or with the assistance of whom the rape was committed;
- Persons with authority over the child;
- The child’s teachers or paid servants or servants of the above persons;
- Public officials, ministers of religion taking advantage of their position, medical and para-medical staff or social workers or birth attendants abusing children in their care;
- Guardians abusing children in their care.

The minimum penalty is also doubled:

1. If the rape is committed with the help of one or more persons;
2. If it is committed in public;
3. If it seriously affects the victim’s health and/or has serious physical and/or psychological after-effects;

4. If the child is disabled;
5. If rape is committed with the use or threat of use of a weapon.

66. Indecent assault on a child (art. 172 of the Child Protection Act) when committed without violence, deception or threats, is punishable by six months to five years' imprisonment. If accompanied by violence, deception or threats, it is punishable by five to fifteen years' imprisonment. If committed with the help of one or more children under ten years of age, the penalty is five to twenty years' imprisonment. The penalties are increased to five to fifteen years' imprisonment and a fine of 400,000 Congolese francs if the indecent assault was committed by the persons or in the circumstances mentioned in article 170, paragraph 2. Indecent assault is any immoral act committed intentionally on a child;

67. Bestiality (art. 174 of the Child Protection Act): incitement of a child to have sexual relations with an animal is punishable by seven to fifteen years' imprisonment and a fine of 500,000 to 1 million Congolese francs.

68. Sexual slavery of a child (art. 183 of the Child Protection Act) is punishable by ten to twenty years' imprisonment and a fine of 800,000 to 1 million Congolese francs. Sexual slavery is the exercise of one or more powers similar to the right of ownership over a child, including by detention or imposition of deprivation of liberty or by buying, selling or bartering the child for sexual purposes and forcing the child to commit one or more acts of a sexual nature.

69. Any indecent assault encouraging, facilitating or promoting debauchery or corruption of children in order to satisfy the passions of other persons is punishable by three to five years' imprisonment and a fine of 500,000 to 1 million Congolese francs (art. 173 of the Child Protection Act).

70. It is punishable by ten to twenty years' imprisonment and a fine of 200,000 to 400,000 Congolese francs if committed on a child under ten years of age.

71. If the offence was committed by the father, mother, stepfather, stepmother, guardian or any person exercising *de jure* or *de facto* authority over the child, the offender also forfeits parental or guardianship rights.

72. The penalties are increased to five to ten years' imprisonment and a fine of 1 million to 2 million Congolese francs if the incitement to debauchery was committed by the father, mother, stepfather, stepmother, guardian or any person exercising *de jure* or *de facto* authority over the child. Incitement to debauchery is the act of facilitating, encouraging or promoting the debauchery of a child.

73. Deliberate transmission of a sexual disease to a child is prohibited under article 177 of the Child Protection Act, which stipulates that any person deliberately infecting a child with an incurable sexually transmitted disease, such as HIV/AIDS, is liable to life imprisonment and a fine of 500,000 to 1 million Congolese francs.

74. Similarly, article 45 of Act No. 8/011 of 14 July 2008 on the protection of the rights of persons living with HIV/AIDS and affected persons states that anyone who deliberately transmits HIV/AIDS is liable to five to six years' imprisonment and a fine of 500,000 Congolese francs.

75. Sexual harassment of a child is punished by three to twelve years' imprisonment and a fine of 200,000 to 400,000 Congolese francs, according to article 181 of the Child Protection Act. Sexual harassment of a child is abuse of the authority conferred by social or professional standing to exert pressure on the child in order to obtain favours of a sexual nature.

76. Encouragement of sexual exhibitionism by a child is punishable by five to ten years' imprisonment and a fine of 200,000 to 600,000 Congolese francs.

77. The penalties are increased to five to fifteen years' imprisonment and a fine of 200,000 to 1 million Congolese francs if the sexual exhibitionism is encouraged by the father, mother, stepmother or any person exercising *de jure* or *de facto* authority over the child. Sexual exhibitionism is displaying certain private body parts and/or making gestures of a sexual nature in public (art. 178 of the Child Protection Act).

78. Producing, distributing, disseminating, importing, exporting, offering, making available, selling, procuring for oneself or for other persons and possessing any child pornography material is punishable by five to fifteen years' imprisonment and a fine of 200,000 to 1 million Congolese francs (art. 179 of the Child Protection Act).

79. The National Censorship Commission, established by Decree No. 003 of 21 February 1996, is responsible for preserving law and order and morality in songs and shows performed in public or intended for the public in the Democratic Republic of the Congo.

80. In particular, it ensures that songs and shows are not likely to provoke racial or tribal hatred, to offend the honour or feelings of others by swearing, calumny, defamation or damaging innuendo, or to encourage debauchery, prostitution, divorce, delinquency or any other harmful tendency. Shows include films, theatrical performances, operas and musicals, videos, slides and in general any other shows.

81. Concerning the responsibility of legal persons for the acts and activities mentioned in article 3 (1) of the Optional Protocol, Book III of the Congolese Civil Code specifies in articles 258, 259 and 260:

- Article 258: The perpetrator of any act that causes damage to another person is obliged to make reparation.
- Article 259: Each individual is responsible for the damage he or she causes, not only by actions, but also through negligence or carelessness.
- Article 260: Individuals are responsible not only for harm caused by their own action but also for harm caused by the actions of persons for whom they are responsible or by property in their care.

82. Book II of the Criminal Code, article 68, classifies as offences: attempts to commit an offence, complicity in an offence and commission of an offence and stipulates that "anyone who abducts, arrests or imprisons or causes to be abducted, arrested or imprisoned any person for the purpose of selling that person into slavery or who has disposed of persons placed under his authority for such purpose shall be punished in accordance with the penalties established by and pursuant to the provisions of the preceding article".

83. Regarding the question of protection, paragraph 3 of article 41 of the Constitution of 18 February 2006 states that "the child is also entitled to the protection of his or her family, society and the public authorities" and paragraph 6 states that "the public authorities have the obligation to provide protection to children in difficult situations and to bring to justice the perpetrators and accomplices in acts of violence against children".

84. With the promulgation of Act No. 09/001 on the protection of children on 10 January 2009 by the Head of State, our country endorsed international adoption as a protection option to ensure children's survival and harmonious development. Articles 18, 19 and 20 of Act No. 09/001 incorporated some provisions of the Hague Convention on Protection of Children and Cooperation in respect of Intercountry Adoption, signed on 27 May 1993 by the States Members of the United Nations and awaiting ratification by the Democratic Republic of the Congo.

85. Act No. 87-010 of 1 August 1987 promulgating the Family Code deals with the question of “simple” adoption in the Democratic Republic of the Congo in articles 650 to 691. It should be noted that the current revision of the provisions of the Family Code will simplify the procedure by taking into account the rights of the child, particularly in the light of the Hague Convention on Intercountry Adoption and the innovations in the Child Protection Act.

86. In addition, the Democratic Republic of the Congo organized the first round table on intercountry adoption from 20 to 22 July 2010. It was attended by over 50 public and private leaders and by representatives of embassies and foreign agencies authorized to deal with intercountry adoptions. The main recommendation made was to create an interministerial structure to monitor intercountry adoption, coordinated by the Ministry responsible for children and the family. This structure, which is already operational in the Ministry of Gender, Family and Children, works with the General Directorate for Immigration and various foreign missions in our country to consider adoption applications.

87. In the first six months of 2010, 96 children were adopted by foreign couples, mainly in the United States, Italy and France.

Articles 4, 5, 6 and 7 Criminal proceedings

88. As regards to the Optional Protocol’s legal status in domestic legislation, it is applied in the Democratic Republic of the Congo through the mechanism established under article 215 of the Constitution of 18 February 2006, which stipulates that “All duly concluded treaties and agreements shall, upon publication, take precedence over legislation subject, in the case of each treaty or agreement, to its implementation by the other party”. It is clear from a reading of this article that treaties concluded by the Democratic Republic of the Congo take precedence and may therefore be cited by all and are binding on Congolese courts.

89. In this case, Congolese law will apply, primarily as regards questions of form and then as regards questions of substance (territoriality of criminal legislation).

90. As regards the victim, the situation is the same: in other words, Congolese law will apply (art. 258 of the Civil Code, Book III), as specified in paragraph 63.1 of the report.

91. Extradition procedure is so complicated and expensive that extradition cannot be granted for all offences.

92. In the Democratic Republic of the Congo, extradition is granted only for offences of a certain gravity. This is determined either by enumeration of extraditable offences in the actual body of the treaty or by reference to the severity of the penalty applicable or actually applied for the offence in question. The second method is the most recent and the most widely used. In particular, it is used in the judicial convention of 4 March 1966 between the Democratic Republic of the Congo (ex Zaire) and Rwanda, which limits extraditable offences to those incurring a minimum prison sentence of six months (art. 2). Apart from treaties, the only text on the subject of extradition is the Decree of 12 April 1886.

93. Article 1 of that Decree stipulates that, subject to reciprocity, the Government will deliver to governments of foreign countries any foreigner accused, prosecuted or sentenced by the courts of those countries as perpetrator of or accomplice in one of the offences committed on their territory that are enumerated in the extradition convention concluded with that country. If there is no extradition convention, or if the offence is not covered by the extradition convention, the foreigner will be delivered only if a special agreement is concluded between the governments.

94. The judicial cooperation agreement may be bilateral (between the Democratic Republic of the Congo and another country) or multilateral (between the Democratic Republic of the Congo and several other States). The general policy regarding extradition is that it may occur only when a judicial cooperation agreement exists. Without a judicial cooperation agreement, extradition may be obtained only after political negotiations. There are no special cases of extradition in the Democratic Republic of the Congo for offences prohibited by the second Optional Protocol to the Convention on the Rights of the Child. However, judicial cooperation agreements do exist between the Democratic Republic of the Congo and other countries. Examples are:

- The judicial cooperation agreement between the Democratic Republic of the Congo and the United States;
- The judicial cooperation agreement of the Economic Community of the Great Lakes Countries;
- The judicial cooperation agreement between the Democratic Republic of the Congo and the ICC.

95. No cases of seizure and confiscation of goods or products used for the commission of one of the offences prohibited by the Protocol have been the subject of a request for extradition from the Democratic Republic of the Congo or from another country addressed to the Democratic Republic of the Congo.

96. For the seizure and confiscation of goods or products, Act No. 09/001 of 10 January 2009 on the Protection of Children stipulates in article 179 that:

- Producing, distributing, disseminating, importing, exporting, offering, making available, selling, procuring for oneself or for other persons or possessing any child pornography material is punishable by five to fifteen years' imprisonment and a fine of 200,000 to 1 million Congolese francs.
- In addition the judge may order the confiscation of the pornographic material in question.

Articles 8, 9 and 10

Protection of the rights of child victims

97. In general, article 74 *bis* of Act No. 06/019 of 20 July 2006 amending and supplementing the Decree of 6 August 1959 promulgating the Code of Criminal Procedure requires the official from of the Public Prosecutor's Office or the judge presiding over a case of sexual violence to take the necessary measures to protect the security, physical and psychological wellbeing, dignity and privacy of the victims or of any other person involved. Thus proceedings may be conducted in camera at the request of the victim or of the official from the Public Prosecutor's Office.

98. Act No. 09/001 of 10 January 2009 on the Protection of Children clearly protects the higher interests of a child who is a victim or who is in trouble with the law. Article 111 of this Act states:

“The children's judge shall arrange for the entire proceedings to be conducted in camera.

He shall hear the child in the presence of the child's parents or guardian, the person caring for the child or the social worker.”

In the interests of the child, the judge may decide that the pleadings should be conducted without the child being present. The hearing is to be conducted without robes. The Public Prosecutor's Office gives its opinion from the bench. In case of doubt, minority is presumed. Article 110 of the above-mentioned Act uses these words:

“For the purpose of inscription of the case, the judge may at any time summon the child and the persons with parental authority over the child.

The judge shall verify the child's identity and, if appropriate, require a medical examination to determine the child's physical and mental state.

In case of doubt, the child shall be presumed to be a minor.

The registrar shall notify the injured party of the date of the hearing.

Default proceedings shall not be allowed in the case of children.”

99. Article 16 of the same Act extends the deadline for free civil registration from 30 to 90 days after the child's birth. It specifies that all children are entitled to be registered within 90 days following their birth, in accordance with the law, and without cost.

100. Paragraphs 85 to 94 of the second report of the Democratic Republic of the Congo on the implementation of the Convention describe the efforts made by the Government to encourage the civil registration of children.

101. The provisions of articles 112 and 113 of the Child Protection Act provide procedural guarantees for children who are victims and for children who are in trouble with the law.

102. Article 112: when an offence committed by a child is connected with one that may give rise to proceedings against an adult, the proceedings are kept separate and the child appears before a children's judge.

103. Article 113 stipulates that, within eight days following the deliberations on the case, the judge must take one of the following decisions:

1. To reprimand the child and return him or her to the parents or to the persons enjoying parental authority, urging them to provide better supervision in the future;
2. To entrust the child to a couple of good moral standing or to an approved private institution of a social character for a period ending no later than the child's eighteenth birthday;
3. To place the child in a public institution of a social character for a period ending no later than the child's eighteenth birthday;
4. To place the child in an appropriate medical or medical/educational centre;
5. To place the child in a State custodial educational facility for a period ending no later than the child's eighteenth birthday;

The third measure listed does not apply to children over 16 years of age. A decree of the Prime Minister, approved in the Council of Ministers, specifies the organization and operation of State custodial educational facilities.

104. Article 41, paragraph 6, of the Constitution of the Democratic Republic of the Congo specifically mentions the protection of children, stating that all other forms of exploitation of minor children are punishable by law. The public authorities have the obligation to provide protection to children in difficult situations and to bring to justice the perpetrators of and accomplices in acts of violence against children.

105. In 2009, cases of trafficking and exploitation of children for sexual purposes were reported by civil society organizations in the district of Bas-fleuve, Territory of Tshiela, Sector of Lubolo in the la Province du Bas-Congo, where some members of the national police collaborating with the Angolan troops stationed on the border between the Democratic Republic of the Congo and the Kabinda enclave (Angola) were taking money in exchange for young girls for purposes of sexual slavery.

106. For example, the Major in charge of the border post of Kikuangu Mbemba was questioned by the Military Prosecutor's Office and confessed. Two of his young victims appeared to testify. Following the decision of the Military Prosecutor's Office, the Major was given a ten-year prison sentence.

107. In addition, because of the killings provoked by the ongoing fighting in the eastern part of the Democratic Republic of the Congo (Orientale Province, Nord-Kivu and Sud-Kivu), many children have been orphaned, separated from their families and left alone. This resulted in clandestine and growing trafficking of children to border countries where they work as herdsmen, servants, field workers, fishermen and domestic or sexual slaves. Sometimes this trafficking resembles a form of intercountry adoption.

108. In 2010, a child trafficking network based in Uvira in Sud-Kivu was discovered after a civil society organization (the NGO ADEM, Unité et Plaidoyer pour Enfants) reported it to the Ministry of Interior, Justice and Human Rights, and the Ministry of Gender, Family and Children in its communication ref. 4/10-221-2010 concerning the report on child trafficking.

109. This discovery revealed that 18 children between one and four years of age had been brought from the town of Uvira to the capital, Kinshasa, to be adopted by Western couples. Following an inquiry, the Minister of Justice and Human Rights was able to intervene and return two of them to Uvira.

110. Statistics are given below of offences prohibited by the Protocol and uncovered in the territories of FIZI, UVIRA, KALEHE, MWENGA, KABARE and SHABUNDA in the province of Sud-Kivu (2009–2010).

No	Type of violation	Results/ activities	2009	2010	Sex and age	Comment
01	Sexual mutilation	00	00	00	N/A	N/A
02	Bestiality	06	01	05	Girls and boys aged 15–17	The children had been arrested for having sexual relations with animals (goats and hens) Cases referred to the Bukavu.Prosecutor's Office
03	Pimping and procuring	80	57	23	Men and women aged 18 and over	Adult shopkeepers exploiting children for sex and money Cases referred to the Bukavu.Prosecutor's Office
04	Incitement of minors to debauchery and exploitation of children for sexual purposes	185	156	31	Girls and boys aged 9–17	Cases referred to the Bukavu.Prosecutor's Office Illustration: RMP 1194/PR/KAM

<i>No</i>	<i>Type of violation</i>	<i>Results/ activities</i>	<i>2009</i>	<i>2010</i>	<i>Sex and age</i>	<i>Comment</i>
05	Forced abortion	67	39	28	Girls aged 13–17	Cases referred to the Bukavu.Prosecutor's Office
06	Trafficking and exploitation of children for sexual purposes	101	51	50	Girls and boys aged 8–17	A new method of exploiting children in the region. This trafficking is flourishing in the countries bordering on Sud-Kivu Province and most of the child traffickers are women. Sexual exploitation is also committed by foreigners: in 2009, there were three cases. In one of them, a member of the Pakistani contingent serving in the United Nations Organization Stabilization Mission in the Democratic Republic of the Congo (MONUSCO) raped a 15-year-old girl who had a child and was evacuated from the Democratic Republic of the Congo. In the other two cases, children were raped by German tourists visiting the Kahuzi-Biega National Park but were released without sentencing at the request of the provincial authorities. In 2010, a Russian pilot in Sud-Kivu was arrested for molesting a 16-year-old girl and taking pornographic photos of her; however, there were no court proceedings and he was released. None of these cases referred to the Bukavu.Prosecutor's Office had a favourable outcome. Recently, trafficking of Albino children by foreigners has been observed along the frontier between the Democratic Republic of the Congo, Tanzania and Burundi. The latest case involved LEE DONGLI, a Korean operating in collusion with Congolese who were arrested by the police in the Pilipili Hotel in Baraka, where they were waiting to take the victim to KIGOMA in TANZANIA.
07	Sexual harassment	226	104	122	Girls aged 15–17	Cases referred to the Bukavu.Prosecutor's Office
08	Indecent assault	86	51	35	Girls aged 15–17	Cases referred to the Bukavu.Prosecutor's Office
09	Sexual slavery	92	53	39	Girls and boys aged 12–17	Cases referred to the Bukavu.Prosecutor's Office
10	Forced pregnancy	84	51	33	Girls aged 13–17	Cases referred to the Bukavu.Prosecutor's Office
11	Forced sterilization	47	32	15	Girls aged 15–17	Cases referred to the Bukavu.Prosecutor's Office
12	Sodomy	51	41	10	Girls and boys aged 10–17	Cases referred to the Bukavu.Prosecutor's Office

No	Type of violation	Results/ activities	2009	2010	Sex and age	Comment
13	Forced prostitution	91	39	52	Girls aged 13–17	Cases referred to the Bukavu. Prosecutor's Office
14	Deliberate transmission of STDs	09	07	02	Girls aged 15–17	Cases referred to the Bukavu. Prosecutor's Office
15	Forced marriage	75	43	32	Girls aged 12–17	Cases referred to the Bukavu. Prosecutor's Office
16	Sentences	15	08	06		Sentencing for rape by the Bukavu Court of Major Jurisdiction and the court of the Bukavu military garrison. One pimp is still in prison at this time.
17	Brothels closed after advocacy	11	05	06	RAS	These brothels were closed after the authorities were approached. Three brothels were closed in Bukavu; two in Kavumu and one in Nyabibwe (mining site). After the decision by the President of the Republic to close the mines, six houses of prostitution were then closed.
Total		3 152	2 004	1 153		

At the brothels identified, there were 198 children (104 girls and 94 boys) between 10 and 17 years of age. The brothels also had video cameras showing pornographic films in the children's presence, thus inciting them to prostitution.

Source: FSH-RDC and Sud-Kivu Police Unit dealing with children, women and sexual violence (PELVS).

111. The judicial inquiry by the Office for the Judicial Protection of Children and Young People in the Ministry of Justice and Human Rights is continuing and should result in the dismantling of this network.

112. The Child Protection Act is more explicit and provides procedural safeguards in articles 103 à 105.

113. Article 106 of the Act lists support services for child victims at all stages of the legal process and states that, before ruling on the merits, the children's judge may order one of the following interim measures:

1. Entrusting the child to the authority of the parents or of those responsible for the care of the child;

2. Placing the child in compulsory residence supervised by the parents or by those responsible for the care of the child;

3. Removing the child from the home and provisional placement with a couple of good moral standing or in an approved public or private social institution.

A couple is understood to mean two people of opposite sex who are legally married. To the extent possible, in selecting an interim measure the children's judge prefers to keep the child in a family environment. Placement in an approved public or private institution should be only a last resort.

114. The social worker monitors the interim measures adopted by the judge.

115. Act No. 06/019 of 20 July 2006 amending and supplementing the Decree of 6 August 1959 promulgating the Congolese Code of Criminal Procedure states in article 14 *bis* that “In addition to the penalty of imprisonment, the same penalties may apply to anyone who over the last ten years has committed at least two offences each requiring imprisonment for at least six years”.

116. In addition, through the Ministry of Gender, Family and Children, the Government, acting in partnership with UNICEF and Congolese civil society, has been organizing legal clinics to help children and women who are victims of various kinds of violence.

117. The clinics provide medical, health, psychological and legal assistance. For example, the Ligue de la Zone Africaine pour la Défense des Droits des Enfants et des Elèves (LIZADEEL) organizes legal clinics throughout the country and an experimental halfway house for children and women in Kinshasa. The table below gives statistics on victims assisted.

Assistance provided by legal clinics to women and children who are victims of violence

1. Types of violence

<i>No.</i>	<i>Type</i>	<i>Number of cases</i>	<i>Adults</i>	<i>Children</i>
01	Sexual violence	515	110	405
02	Trouble with the law	72	47	25
03	Plundering	64	38	26
04	Ill-treatment	48	18	30
05	Traffic accidents	48	38	10
06	Absentee husband (divorce pending)	32	32	-
07	Accusations of witchcraft	32	8	24
08	Arbitrary arrest	24	20	4
09	Homelessness	24	17	7
10	Assault and battery	8	7	1
11	Manslaughter	8	3	5
12	Extortion	8	8	-
13	Theft	8	8	-
14	Death threats	8	7	1
15	Abduction	8	6	2
Total		907	367	540

Source: LIZADEEL.

118. Psychological counselling is accompanied by medical and health intervention to examine victims and provide them with appropriate care. These preliminary measures help victims to report offences in order to obtain legal compensation and to punish offenders.

119. The following table shows the offences committed from January to September 2010 by persons detained in the central prison of Makala for violence against children:

Persons detained in the central prison of Makala/Kinshasa for violence against children from January to September 2010:

<i>Rape</i>	<i>Attempted rape</i>	<i>Abduction</i>	<i>Illegal confinement</i>	<i>Indecent assault</i>	<i>Pedophilia</i>	<i>Armed conflict</i>	<i>Observation</i>
200	50	45	30	55	-	-	
Total		380 cases of violence against children					

Source: Ministry of Justice and Human Rights/General Justice Secretariat – Department for the Judicial Protection of Children.

Victims who received psychological, social and legal counselling in the Democratic Republic of the Congo during 2009

Table No. 1

Psychological and social counselling by province in the Democratic Republic of the Congo

Province	Period (beginning until end Dec.)	Number of cases		Number of victims who regained their self-confidence		Number of victims who remained the same		Number of victims who gave up counselling but were followed		Number of victims who gave up counselling and with whom contact was lost		Number of victims who became worse		Total direct victim accompanied victims		Total victims	Number of indirect collateral victims receiving counselling			Total beneficiaries		Annual total
		G	B	G	B	G	B	G	B	G	B	G	B	G	B		G	B	G	B		
1. Kinshasa (CAJEM Offices)	March 2009	724	26	503	18	90	2	67	6	56	0	8	0	724	26	750	621	204	1 323	230	1 575	
2. Bas-Congo	February	39	3	30	3	9	0	0	0	0	0	0	0	39	3	42	3	3	42	6	48	
3. Bandundu	July	26	2	20	2	6	0	0	0	0	0	0	0	26	2	28	2	2	28	4	32	
4. Equateur	May	13	1	10	1	3	0	0	0	0	0	0	0	13	1	14	1	1	14	2	16	
5. Kasai-Occ.	January	956	59	596	56	267	2	0	0	0	0	16	1	956	59	1 018	405	62	1 364	121	1 485	
6. Kasai-Or.	January	52	4	40	4	12	0	0	0	0	0	0	0	52	4	56	4	4	56	8	64	
7. Katanga	January	104	8	80	8	21	0	0	0	0	0	0	0	104	8	112	8	8	112	16	128	
8. Maniema	January	91	7	70	7	21	0	0	0	0	0	0	0	91	7	98	7	7	98	14	112	
9. Prov. Or.	January	724	26	503	18	90	2	67	6	56	0	8	0	724	26	750	621	204	1 323	230	1 553	
10. Nord-Kivu	January	78	6	60	6	18	0	0	0	0	0	0	0	78	6	84	6	6	84	12	96	
11. Sud-Kivu	January	117	9	90	9	27	0	0	0	0	0	0	0	117	9	126	9	9	126	18	144	
Total	December	2 927	151	2 002	132	564	6	134	12	112	0	32	1	2 927	151	3 078	1 687	510	4 570	661	5 231	

Source: LIZADEEL/National Office, 2009 Report.

Table No. 2

Legal counselling by province in the Democratic Republic of the Congo

Province	No. of cases received by CAJEM		No. of cases referred to the Office of the Prosecutor by the police				No. of cases settled		No. of cases resolved by amicable agreement		No. of cases in which the offender has fled		No. of cases not reported to the police	
1. Kinshasa (CAJEM Offices)	100	0	64	0	43	0	14	0	16	0	26	0		
2. Bas-Congo	35	0	23	0	11	0	7	0	5	0	12	0		12
3. Bandundu	24	0	14	0	13	0	3	0	5	0	10	0		10
4. Equateur	24	0	14	0	13	0	3	0	5	0	10	0		10
5. Kasai-Occ	2	0	2	0	2	0	0	0	0	0	0	0		0
6. Kasai-Or.	4	0	4	0	4	0	0	0	0	0	0	0		0
7. Katanga	39	0	27	0	17	0	4	0	6	0	4	0		12
8. Maniema	53	0	37	0	19	0	7	0	9	0	12	0		16
9. Prov. Orientale	56	0	36	0	20	0	11	0	7	0	16	0		20
10. Nord-Kivu	24	0	14	0	13	0	3	0	5	0	10	0		10
11. Sud-Kivu	24	0	14	0	13	0	3	0	5	0	10	0		10
Annual total	385		249		168		55		63		110			134

Source: LIZADEEL/National Office, 2009 Report.

120. Since 2006, the Fondation Solidarité des Hommes has been organizing legal clinics in all the main towns of the provinces of Nord-Kivu, Sud-Kivu and Maniema for medical, psychosocial and legal counselling and reinsertion of women and children who are the victims of violence.

121. Article 104, paragraph 7, of the Child Protection Act mentions the child's right to privacy at all stages of the proceedings.

122. Shelters have been opened in Kinshasa and in the east of the country for children and women who are victims of violence. These include the halfway house for victims of violence.

123. Child victims receive appropriate help with a view to social reintegration. Article 63 of the Child Protection Act states that special protection is provided through the arrangements for State guardianship provided by law, foster care and other appropriate care arrangements.

124. The provisions of article 63 of the Child Protection Act describe foster care in these terms: "Foster care shall be organized by the social worker taking into account the opinion of the child, depending on the child's maturity and age. The social worker shall immediately report to the children's judge, who shall approve the foster care. If the child concerned is being cared for by parents or a guardian, the decision shall be taken by the children's judge at the request of the social worker".

125. An order of the minister responsible for social affairs regulates foster care, with emphasis on regular inspections and the minimum standards for the care of children.

126. Article 64 of the Child Protection Act specifies that foster care may be in an extended family, in a host family, in an approved public or private institution of a social nature or in an independent centre for the child's boarding, rehabilitation and social

reintegration. In the latter case, the child must be at least 15 years of age. Foster care in an institution is a last resort and may not continue for more than six months.

Articles 9 and 10

Prevention of the sale of children, child prostitution and child pornography

127. With a view to preventing offences involving the sale of children, child prostitution and child pornography, Congolese legislation contains the following provisions:

Article 41 of the Constitution of 18 February 2006 states:

“A minor is any person of either sex who has not yet attained 18 years of age.

A minor also has the right to the protection of his or her family, society and the public authorities.

Abandonment and mistreatment of children, especially pedophilia, sexual abuse and accusations of witchcraft are prohibited and shall be punished by law.

Parents have the duty to take care of their children and ensure their protection against any acts of violence, both within and outside the home.

The public authorities have the obligation to provide protection to children in difficult situations and to bring to justice the perpetrators of and accomplices in acts of violence against children.

All other forms of exploitation of minors shall be punished by law.”

128. Despite the existence of legal provisions designed to protect children against offences prohibited by the Protocol, there is an anti-social network operating in the Territory of Kasongo-Lunda, District of Kwango, Province of Bandundu, all along the frontier with Angola.

129. Many Congolese girls are being sold to Angolan soldiers and the sales price, in the form of a dowry, ranges from \$1,500 to \$2,000, paid directly to the agent without the girl's parents being present, and the 20 per cent commission is paid to the Congolese go-between.

130. These facts were reported by the Administrator of the Territory of Kasongo-Lunda responsible for political and administrative questions in his report of 5 November 2010.

131. This trafficking has been going on for some time and is constantly expanding. Some statistics are given below for the period from September to October 2010.

<i>Crossing point humanitarian corridor</i>	<i>Month</i>	<i>Age bracket</i>	<i>Number of girls and women trafficked</i>
MBONGO			
Kwango/Zinabunkete	September-October 2010	11 to 15	12
Dibulu	September-October 2010	11 to 15	30
Maluku	September-October 2010	11 to 15	18
Kitangu	September-October 2010	11 to 15	40
Kiyangu Kambamba	September-October 2010	11 to 15	10
Swa Kibula	September-October 2010	11 to 15	28
Kiwenga	September-October 2010	11 to 15	15
Mawangu	September-October 2010	11 to 15	18

<i>Crossing point humanitarian corridor</i>	<i>Month</i>	<i>Age bracket</i>	<i>Number of girls and women trafficked</i>
Katodi	September-October 2010	11 to 15	11
Mbomba	September-October 2010	11 to 15	27
Total			209

132. In this connection, mention should be made of the arrest by the Congolese National Police of a presumed child trafficker at Kamako, which is a town in the Territory of Tshikapa, Province of Kasai-Occidental, on the frontier with the Republic of Angola. He will subsequently be transferred to the Secondary Prosecutor's Office about 260 km from Kananga, the chief town of the Province of Kasai-Occidental. The Kamakoi Chief of Police explained that the person arrested is 45 years old and was caught while he was preparing to send two 12-year-old girls to Angola. He admitted his guilt during the hearing and added that in September 2010 he had sold two girls aged 13 and 14 for \$600 each. However, the man did not reveal the purpose for which the girls had been bought. A frontier official said that the trafficker, whom he did not name, had indicated that some Congolese women from Kamonia (a town near Kamako) are very actively trafficking girls, in collusion with Angolan women.

133. Article 42 of the Constitution states that the public authorities have an obligation to protect young people against any threat to their health, education and all-round development.

134. Article 38 of the Child Protection Act states that:

- All children are entitled to an education.
- Parents are required to send their children to school without discrimination.
- The State guarantees the right of children to education by making public primary school obligatory and free of charge. It organizes the various types of secondary and vocational education. It includes the teaching of human rights, and in particular the rights and duties of children, as well as training for life at all levels of the education system.

135. On the occasion of the commencement of the 2010–2011 academic year, in an official communiqué dated 30 August 2010, the President of the Republic confirmed that basic education (first, second and third years of primary school) are free of charge at all schools in the Democratic Republic of the Congo with the exception of those in the city-province of Kinshasa and in Lubumbashi.

136. Article 57 of the Child Protection Act entitles children to protection against any form of exploitation and violence. It is the duty of parents to see that family discipline is administered in such a way that the child is treated humanely. The State ensures that discipline in schools and approved private and public care institutions is administered in such a way that the child is treated humanely.

137. Inter-ministerial decision No. 001/CAB/MIN-ECO/2007 and 001/CAB/MIN/IND/2007 of 12 April 2007 enacting the prohibition of trade in alcohol, eaux-de-vie and prepared liquor mixes makes these substances less easily available to children. Pursuant to that decision, stocks of these beverages manufactured in violation of this prohibition have been confiscated.

138. The Ministry of Health, through the ministerial decisions listed below, has also incorporated the protection of children in its programme of action:

- Ministerial decision No. 1250/CAB/MIN/SPF/014/1997 of 17 March 1997 on public health measures concerning tobacco use;
- Ministerial decision No. 1250/CAB/MIN/S/CJ/25/2003 of 3 May 2003 on the creation and organization of a National Programme to Combat Drug Addiction in the Democratic Republic of the Congo.

139. As regards policies and programmes to prevent the offences referred to in the Optional Protocol, there are sector plans in almost all the government ministries with responsibilities in these areas. For example, the Ministry of Gender, the Family and Children:

a) Prepared a national plan of action in 2007 for preventing and combating violence against children, leading to the nation-wide publicity campaign for the Child Protection Act in effect since 2010, with UNICEF support;

b) Created the National Inter-ministerial Agency to Combat Violence against Women (AVIFEM). This Agency, which will receive domestic, bilateral and multilateral financing, includes in its action plan a section on the prevention of abuse prohibited by the Protocol;

c) Established the National Fund for the Advancement of Women and the Protection of Children (FONAFEN). This Fund has a start-up budget of \$1.5 million provided by the Government. When operational, it will support public and private initiatives to prevent abuse, look after victims and promote the rights of women and children;

d) Created the International Adoption Monitoring Commission, which ensures that the domestic adoption process is compatible with the process of intercountry adoption and its monitoring:

- Interministerial decision No. 12/MIN/TPS/AR/34/2006 of 10 June 2006 concerns the establishment, organization and operation of the National Committee to Combat the Worst Child Labour. The goal of this Committee, which has been operational since 2008, is to eradicate the worst forms of child labour.
- The Mobilization Programme to remove children from mines, supported by ILO/ Union of Congolese Patriots, Save the Children, Solitary Center and UNICEF, is already helping thousands of children in mining areas to attend schools or vocational training centres in collaboration with the National Vocational Training Institute.
- The National Programme for Youth Employment (Proyen) is being tested since 2009 at a total cost of \$4,545,000. It focuses on promising sectors and is designed to provide young people with work in the sectors of agriculture and development, infrastructure, mining and hydrocarbons.

140. For the other vulnerable categories, the Ministry for Social Affairs and Humanitarian Action has created:

- The Department of Social Action for the Protection of Children, which has a pilot programme for children whose parents died of AIDS, children who have been sexually abused and children who have been trafficked or sold. This programme, which is supported by the World Bank and in which NGOs and various partners are involved, will cost \$5 million when it becomes operational in 2011 and will assist about 10,000 children.
- The children to be helped by the Department range in age from 0 to 13 years.

141. The National Social Reinsertion Service is also part of the Ministry of Social Affairs. It deals with the social and economic reinsertion of street children (who number about 40,000 in the Democratic Republic of the Congo), as well as children who have been sexually abused and obliged to engage in the worst forms of child labour. The children, who range in age from 6 to 22, are helped to catch up with their studies and to learn a trade.

142. In addition, the Ministry of Public Health has taken certain administrative decisions to prevent the sale of children, child prostitution and child pornography. These measures include ministerial decision No. 1250/CAB/MIN/S/AJ/008/2001 of 9 December 2001 on the creation and organisation of the National Mental Health Programme. According to article 3, the mission of the Programme is:

- To make an inventory of mental health problems.
- To formulate and standardize strategies to combat alcoholism, drug addiction, doping and juvenile delinquency and to deal with the aftermath of obstetrical and psychosocial trauma as well as trauma connected with traffic accidents, war and disasters.
- Devise strategies for dealing with the above-mentioned psychosocial problems.
- Publicize strategies and protocols for dealing with mental health problems.
- Incorporate mechanisms for dealing with mental health problems in establishments providing health care at the different levels of the country's health pyramid.
- Organize and coordinate communication units dealing with mental health problems.
- Organize patient care.
- Promote and coordinate mental health research.

143. Ministerial decision No. 1250/CAB/MIN/S/AJ/BAL/21/2002 of 20 August 2002 regulated the creation, organization and operation of the National Council to combat harmful traditional practices and female genital mutilation.

144. Ministerial decision No. 1250/CAB/MIN/S/AJ/BAL/20/2002 of 6 November 2002 on the creation and organization of the National School Health Programme assigned the following tasks to the Programme:

- Formulation and dissemination of school health strategies.
- Organization and supervision of school health services in educational establishments.
- Inclusion in curricula of school health topics, including environmental hygiene, nutrition, basic information on the principal endemic diseases and education for life.
- Drafting of guidelines on environmental sanitation and safety at school.
- Creation of schools for school health.
- Integration of school health activities in the national health system.
- Monitoring and supervision of implementation of the regulations concerning health at school.

145. Ministerial decision No. 1250/CAB/MIN/S/CJ/001/2003 of 13 January 2003 concerned the creation, organization and operation of the National Adolescent Health Programme.

146. The mission of the National Programme of Action for Drug Prevention and Control was described in article 2 of ministerial decision No. 1250/CAB/MIN/S/CJ/CM/25/2003 of 3 May 2003 on the creation and organization of the Programme, which has a threefold mission:

- “To warn about the dangers of drug addiction resulting from the use of tobacco, alcohol, drugs, medications, doping substances and other psychoactive products of chemical origin or based on plants;
- To ensure that the victims of drug addiction receive treatment and medical and psychological care to help them with withdrawal and post-cure problems and with their reinsertion in society and in their families;
- To coordinate, organize and evaluate activities to combat all forms of drug addiction in the Democratic Republic of the Congo.”

The actual responsibilities of this Programme are defined in article 3 of this ministerial decision:

- “To coordinate, organize and evaluate the prevention and treatment of drug addiction and the care of drug addicts;
- To formulate and enforce the national policy to combat drug addiction;
- To draft standards and regulatory texts on its mission, in ongoing liaison with other competent services;
- To supervise publicity, promotion and sponsorship of tobacco products, alcohol and other products with similar effects;
- To provide liaison with organs and agencies involved in combating the abuse and illegal trafficking of drugs, tobacco and alcohol;
- To organize or conduct prospective studies to determine the magnitude of drug addiction problems and propose appropriate solutions;
- To provide training, information and publicity on the subject of drug addiction;
- To produce promotion and publicity material;
- To produce teaching manuals and materials.”

147. Ministerial decision No. 1250/CAB/MIN/SP/010/AQ/2007 of 19 July 2007 contains measures applicable to the use and consumption of tobacco and its derivatives.

148. Ministerial decision No. 250/CAB/MIN/S/AJ/KIZ/009/2001 of 9 December 2001 concerns the creation and organization of the National Reproductive Health Programme. Article 2 describes the threefold mission of the Programme:

- To formulate, disseminate and implement the reproductive health national policy, master plan, organic framework and standards among the Congolese population and partners involved in the Programme.
- To coordinate, monitor, supervise and evaluate the data collection methods authorized by the Ministry of Health.
- To mobilize resources to support the provision to maternity clinics and Desirable Birth Units of gynaecological/obstetric supplies, essential medicines and contraceptives in order to improve the quality of care as well as of staff training and research on reproductive health.

149. As stated in paragraphs 60 to 65 of the second periodic report on the rights of the child, awareness of the offences prohibited by the Protocol has been raised by various means including translation into the four national languages, distribution of leaflets, posters and cartoon strips on the Child Protection Act and information for public and private stakeholders (members of the judiciary, civil servants, police, members of NGOs, children, teachers, musicians, religious leaders and other artists) about the Act and the rights of the child. There are also radio and television programmes on the “Friends of Children” journalists’ network and spaces for children and press articles featured on radio and television.

150. The National Programme for Civic and Moral Education has been incorporating some concepts from the Child Protection Act since the academic year 2009–2010 and has incorporated human rights since the academic year 2007–2008 with technical support from the MONUSCO human rights office. Six out of 11 provinces were targeted for training of a core group of 210 educators, consisting mostly of teachers on that occasion. The programme handbook was distributed. Efforts are clearly needed to provide training and tools to the whole country.

151. As noted in paragraphs 142 to 146 of the second periodic report, the Ministry of Gender, Women and Children, working with the Ministry for Primary, Secondary and Vocational Education and the Ministry for Social Affairs, prepared a national strategy paper for the participation of children. This strategy, which is currently being approved by the Government, will relaunch the idea of establishing the Children’s Committee covering the entire national territory and the creation of local grassroots committees for the eventual creation of a children’s parliament.

152. Concerning measures to effectively prohibit the production and dissemination of material prohibited under the Protocol, article 179 of the Child Protection Act also specifies that such pornographic material is prohibited and will be confiscated and article 14 of the Criminal Code states that a special confiscation will apply to items that are the subject or the result of the offence.

153. Article 76 of Act No. 96-002 of 22 June 1996 on freedom of the press specifies that “Any person who, by means of speeches, written material, printed matter, drawings, engravings, images, paintings, emblems, or any other written or spoken medium or image that is sold, distributed, disseminated or exhibited in public places or meetings or in the sight of the public, directly incites the perpetrator or perpetrators of an act deemed to be an offence under articles 22 and 23 of the Criminal Code, book I, to commit such an act shall be punished as an accessory, if the provocation is effective”.

154. Ministerial decision No. 04/009/2002 amended and supplemented ministerial decision No. 04/DIP/05/90 of 21 January 1990 of the Minister of Communications establishing rules regarding tobacco and alcoholic beverages. It was also recommended that cigarette packets should carry the following warnings:

- Sale to minors and by minors prohibited;
- Smoking is harmful to health;
- Tobacco seriously injures your health;
- Warning: smoking kills.

Article 2 of ministerial decision No. 1250/CAB/MIN/SP/010/AQ/2007 of 19 July 2007 concerns measures applicable to the use and consumption of tobacco and its derivatives: Smoking is highly addictive. This decision strengthens the provisions of the above-mentioned decision.

155. Article 74 of the Child Protection Act establishes nine bodies to monitor enforcement of the measures adopted:

1. The National Children's Board.
2. The Educational and Vocational Guidance Council.
3. The Social Workers Panel.
4. The Special Child Protection Brigade.
5. The Labour Inspectors Council.
6. The Council of Primary, Secondary and Vocational Education Inspectors.
7. The National Committee to Combat the Worst Forms of Child Labour.
8. The approved agencies and institutions of civil society in the children's sector.
9. The Children's Parliament and Committees.

156. In order to comply with the guidelines in paragraphs 27 to 29, the Media Authority, which regulates the commercial, associative and community media in the Democratic Republic of the Congo public and private sectors, is responsible for ensuring that all radio and television programmes and the written press comply with the laws of the Republic and with ethics. Among other measures, it has taken the following decisions:

- Decision No. HAM/B/082/2006 of 12 May 2006 prohibiting the televising of images and sounds of the performing artist Toussaint BAKAMBANA BRACONGO, in the advertisement for Skol beer.
- Decision No. HAM/AP/086 of 12 May 2006 imposing a 60-day ban on the social activist Zacharie BABABASHWE, for having produced and aired unannounced in the evening of 8 May 2006 on the television channel Horizon 33 the programme "Kinoi food", containing insulting, offensive, discriminatory words and incitement to hatred against non-Kinois described as new NGONTOBOBO MAPEKA.
- Decision No. HAM/B/CP/406/2010 of 17 March 2010 banning the television news programme Lingala Facile. This programme, produced by Journal Télévisé en Lingala Facile and aired by several Kinshasa television channels is an amalgam of amateurism, systematic inappropriate dramatization, sensationalism, linguistic triviality and excessive self-promotion, thus violating articles 2, 3 and 9 of the March 2004 Congolese Code of Journalist Ethics.

157. In order to raise public awareness of the rights of children, the Lokole Centre – Search for Common Ground in the Democratic Republic of the Congo is producing a number of audiovisual programmes each week in its production studios in Kinshasa and Bukavu. The programmes dealing with children include:

- Jirani Ni Ndungu (My neighbour is my brother): a radio series in Swahili. It is about the conflicts experienced in the lives of people and shows how to deal with them by a collaborative approach rather than by confrontation.
- Sisi Watoto (We the Children): a 15-minute programme in Swahili about the rights of children in post-conflict situations. The programme is produced by a team of reporters trained at the Lokole Centre. It focuses on child soldiers, their demobilization and their social reinsertion.

- Duel of the Young Democrats: a weekly radio game launched in 2008. It is produced in different schools or institutes in different provinces. There are duels between schools with the goal of assessing students' skills and knowledge about the situation in the country and democracy in the Democratic Republic of the Congo.

158. In this connection, decree No. 003 of 21 February 1996 created the National Commission for Censorship of Songs and Performances. The Commission reports to the Minister of Justice and Human Rights and covers the entire country. It is responsible for protecting morality in songs and performances which take place in public or are intended for the public in the Democratic Republic of the Congo. In particular, it verifies whether the song or the performance is likely to incite to debauchery, prostitution or delinquency. The performances in question include films, plays, operas and musicals, videos and slides.

159. In 2009, the Commission had to ban performances in the exercise of its powers:

- Decision No. JUST & DH/CNCCS/CAB.PRES/041/2010 banning the public showing of video clips of the songs Santa Claudia, Matshuda, Mandagi and Mageko of the musician Reddy Amisi because they were unethical and immoral.
- Decision No. JUST/CNCCS/CAB/P/022/2009 banning the public performance of a play entitled MUTOMBO containing immoral sequences and dialogue undermining morality and the maintenance of law and order.

Articles 6 and 10

Assistance and international cooperation in implementation of the Protocol

Article 10

Assistance and international cooperation

160. As regards activities promoting international cooperation to eliminate poverty and under-development in the Republic, the country is aware that the budgetary resources allocated to the sector with a direct effect on the protection of the rights of the child against the sale of children, child prostitution, child pornography and sexual tourism are still meagre, ranging from 8 to 10 percent of the budget in 2010.

161. Economic difficulties, compounded by armed conflicts, have not allowed the Government to increase budget allocations. Thus the share of the national budget devoted to the social sectors is still small.

162. However, with the attainment of the HIPC completion point and the resulting cancellation of 90 percent of the country's foreign debt, things are looking up in the context of the resumption of bilateral and multilateral cooperation.

163. The Democratic Republic of the Congo, which has acceded to the HIPC Initiative, has already drafted its first-generation and second-generation Growth and Poverty Reduction Strategy Papers. It is currently implementing the second-generation Paper, which will enable more financial and budgetary resources to be allocated to the social sectors in general and in particular to the sectors involving the promotion and protection of children.

164. Regarding international cooperation to assist the physical and psychological rehabilitation of child victims and their social reinsertion, it should be noted that, with World Bank help, more than 30,594 children associated with fighting forces (CAFF) were demobilized in 2007. Of these, 12 percent were girls (Executing Unit for the National Programme for Disarmament, Demobilization and Reinsertion (UEPNDDR), "Zero CAFF" campaign in the Democratic Republic of the Congo) – June 2008-June 2009.

165. The provision of appropriate assistance to ensure physical and psychological rehabilitation and social reintegration have formed part of the DDR process since the programme was launched in 2001. The stages are as follows:

- Demobilized children whose families can be easily contacted are directly reunited with them.
- Those who have to remain a little longer in transit receive a symbolic “civilian life” kit containing clothing, shoes, bed linen and kitchen utensils. They are also given a medical examination and receive counselling for the entire duration of their stay at the centre. Their educational level is assessed, and children found to have very weak skills take remedial classes in reading and writing and in basic education (rules of good behaviour and manners). At each stage of the process, socio-cultural and sports activities are organized.
- At the same time, the search for families is launched, followed, if necessary, by mediation to achieve reunification. If mediation fails or if the children are unable to find their biological family, they are placed with a temporary foster family.
- Reintegration based on the educational project is organized by the temporary supervision structure in the form of vocational or educational guidance.
- The following occupations are the ones usually explored:
 - a) Bakery and confectionery;
 - b) Sewing and dressmaking;
 - c) Bicycle and motorcycle repairs;
 - d) Carpentry;
 - e) Metalworking;
 - f) Fishing;
 - g) Agriculture and cattle raising.
- Follow-up and assessment activities are organized at every stage.
- The following table provides disaggregated figures for each of the country’s 11 provinces regarding the type of reintegration assistance made available to the 30,594 children released from armed forces and armed groups.

Children released from armed forces and groups

The following table provides figures for each of the country’s 11 provinces (Bandundu, Bas-Congo, Équateur, Kasai-Oriental, Kasai-Occidental, Katanga, Kinshasa, Sud-Kivu, Nord-Kivu, Province Orientale and Maniema) showing the type of reintegration assistance provided to the 30,594 children released from armed forces and groups.

Assistance to children released from armed forces and groups by category and by province

	<i>BDD</i>	<i>BC</i>	<i>EQ</i>	<i>KOR</i>	<i>KOC</i>	<i>KT</i>	<i>KN</i>	<i>SK</i>	<i>NK</i>	<i>PO</i>	<i>MA</i>	<i>Total</i>
Released	150	537	3 247	488	262	2 355	170	4 980	6 736	9 448	2 221	30 594
Reunited	135	16	2 451	488	114	1 652	175	3 058	4 489	8 203	2 279	23 060
In school	1	5	210	86	4	628	0	312	2 078	2 335	872	6 531

	<i>BDD</i>	<i>BC</i>	<i>EQ</i>	<i>KOR</i>	<i>KOC</i>	<i>KT</i>	<i>KN</i>	<i>SK</i>	<i>NK</i>	<i>PO</i>	<i>MA</i>	<i>Total</i>
Trained	6	2	1 642	208	22	163	148	1 133	2 329	3 009	1 529	10 191
Total economic reintegration	7	7	1 852	294	26	791	148	1 445	4 407	5 344	2 401	16 722
Estimated number awaiting reintegration: About 6 000												

Source: Min. Social Affairs, Report on monitoring and evaluation of activities of the National Demobilization and Reintegration Programme (children).

166. The reintegration of child victims of sexual abuse is organized through a programme of medical, health and psychological assistance and legal counselling provided by the Government through the Ministry of Gender, Family and Children with the support of UNICEF and the collaboration of local NGOs. Thousands of children have received this assistance in Nord-Kivu, Sud-Kivu, Ituri, Province Orientale and Kinshasa.

167. Since 2003, government agencies have been working with government institutions, United Nations specialized agencies and civil society in a Joint Initiative combining efforts to combat impunity for sexual violence.

168. Successes include the creation of victim support structures and voluntary screening centres, logistical support for the mobile courts to hear cases of mass rape (such as the NSONGO MBOYO mass rape in the province of Equateur), creation of legal clinics and capacity-building to combat sexual violence.

169. There is now regional and international cooperation concerning criminal procedure with regard to the offences described in the Protocol.

170. Similarly, Decree No. 09/35 of the Prime Minister dated 12 August 2009 on the creation, organization and operation of the Human Rights Liaison Entity has given the Republic a channel for the Government to work with national and international NGOs.

The role of the Entity is to evaluate national human rights activities and suggest approaches to ensure the proper protection of human rights.

171. As regards financial, technical and logistical assistance, the Democratic Republic of the Congo has received help in the context of bilateral and multilateral cooperation from the following agencies in the United Nations system: UNDP, UNICEF and UNIFEM.