

**2<sup>ND</sup> SESSION OF THE OPEN-ENDED WORKING GROUP ON  
AN OPTIONAL PROTOCOL TO THE CONVENTION ON THE  
RIGHTS OF THE CHILD**

**WRITTEN COMMENTS RECEIVED FROM DELEGATIONS  
ON ARTICLE 3<sup>1</sup>**

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<sup>1</sup> This compilation does not include statements from delegations accepting or rejecting the inclusion of a provision on collective communications.

## Proposals by the delegation of Liechtenstein

### Article 3

#### Collective communications

1. National human rights institutions and ombudsman institutions and non-governmental organizations ~~in consultative status with the United Nations Economic and Social Council with particular competence in the matters covered by the Convention and the Optional Protocols thereto,~~ which have been specifically approved for that purpose by the Committee may submit collective communications alleging ~~grave and systematic~~ recurrent violations of any of the rights set forth in:

- (a) the Convention;
- (b) the Optional Protocol to the Convention on sale of children, child prostitution and child pornography;
- (c) the Optional Protocol to the Convention on the involvement of children in armed conflict.

2. ~~Each State part may, at the time of signature or ratification of the present Protocol or accession thereto, declare that it does not recognize the competence of the Committee provided for in subparagraph 1 (b) and/or (c) of the present article.~~

3. ~~Any State party may also, at the time of ratification or accession to the present Protocol, or at any time thereafter, declare that it recognizes the right of any national non-governmental organization within its jurisdiction, which has particular competence in the matters covered by the Convention and the Optional Protocols thereto, to submit collective communications as provided for in paragraph 1 of the present article.~~

**Article 3****Collective communications**

1. *National human rights institutions and ombudsman institutions and non-governmental organizations in consultative status with the United Nations Economic and Social Council with particular competence in the matters covered by the Convention and its Optional Protocols, which have been approved for that purpose by the Committee, may submit collective communications alleging grave or systematic violations of any of the rights and obligations /or/ provisions set forth in /ALT rights deriving from:*
  - (a) the Convention;
  - (b) the Optional Protocol to the Convention on sale of children, child prostitution and child pornography;
  - (c) the Optional Protocol to the Convention on the involvement of children in armed conflict.

# INTERNATIONAL DISABILITY ALLIANCE

Comment:

Draft article 3 (1):

- *NGO status*- We agree with the Committee on the Rights of the Child's assessment that it is not prudent to limit NGO submissions for collective communications to only those NGOs in consultative status with ECOSOC and which are approved by the Committee for that purpose. (CRC contribution, para. 14.) National and local NGOs currently make submissions to the UPR and treaty bodies which increases the information available from as close to home as possible. (See Joint NGO submission.) **Furthermore, there is a strong interest in increasing access to the Committee by NGOs which have a strong interest in the rights of children (for example, organizations of persons with disabilities) but who are not yet known to the Committee.** Thus, we propose to delete the language restricting which NGOs may make submissions for collective communications.

- *"grave and systematic"* - We agree with both the Joint NGO submission and the Committee on the Rights of the Child contribution to remove the condition that collective communications must allege "grave or systematic violations". We propose to delete the language, "grave and systematic" in order to distinguish this procedure from the inquiry procedure of Article 10, and to lower the threshold; in several circumstances, it may be burdensome or impossible to prove that a violation is grave or systematic:

- there may not be enough data and statistics collected on the issue ;
- gaining access to victims might be challenging because they are in State care.

Being unable to reach this high threshold will result in a lack of remedies for many child victims. The threshold should be kept lower. Admissibility should be based on unsatisfactory application of rights under the CRC and its Optional Protocols (as proposed by the joint NGO submission).



ngo group for the crc

Statement on Art 3 and 12

Thank you, Mr Chairman,

This statement is made on behalf of the 77 member organisations of the NGO Group for the CRC.

We welcome the statement made by Serbia and Slovenia and strongly support the inclusion of collective communications in the draft.

Collective communications will complement individual communications by allowing communications that do not require the identification of an individual victim. The delegation of Austria asked for examples of cases where plaintiffs would not come forward through the individual procedure. Mexico mentioned the case of street children this morning, we can also think of victims of sale, victims of child labour, and any other category of children who will most certainly not use the individual communication procedure because they would fear of reprisal from those violating their rights or because they do not trust national systems.

Under the collective complaints system of the European Social Charter system, complaints were brought regarding the right to education for children and adults with autism or to ensure that the rules against underage labour was enforced, particularly work within the family. They did not identify individual victims but concerned identifiable groups of child victims. States were able to respond to such collective complaints despite the non-identification of individual victims since the situations they described allowed the identification of the groups of children concerned by the violations alleged.

To make sure that those categories of children can also have an international remedy if national systems fail them, it will be essential to allow the actors who hear about those violations, namely the national human rights institutions, ombudspersons and NGOs, to "step in", so to say, and bring those issues to the attention of the Committee.

We understand the confusion of many delegations as to the relationship between collective communications and the inquiry procedure. Inquiry procedures are an established procedure to address grave or systematic situations whereas collective communications are meant to cover situations where children may be too vulnerable or victimised to use individual communications.

As pointed out by Liechtenstein, such apparent duplication could be avoided by changing the threshold for collective communications and allow them for those situations harming multiple victims.

We therefore strongly support the suggestion to change the threshold of Art. 3, as suggested by Liechtenstein and other States.

We agree with Iran and others in that the ECOSOC status is not a valid requirement to allow standing of NGOs and that local and national NGOs that might not have the ECOSOC status - because they do not work at the UN level - will be the best placed to know about children's rights violations on the ground. We would therefore support the deletion of the ECOSOC status requirement in the text.