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

4. The Committee welcomes the adoption of the following legislative measures:

   ...  

   (b) The Adoption Act of 18 September 2009;  

   ...

### III. Main areas of concern and recommendations

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

**Data collection**

15. While noting that the State party has established an information system for the childhood (SIPI), as part of the INAU, as well as the Comprehensive Information System on the Social Area, the Committee is concerned that there are many inconsistencies and gaps in relation to data collection, particularly in the fields of health, juvenile justice, violence and abuse, disability, children without parental care and children of African descent.

16. In the light of its general comment No. 5 (2003) on general measures of implementation of the Convention on the Rights of the Child, the Committee urges the State party to expeditiously establish a
comprehensive data collection system. The data should cover all areas of the Convention and should be disaggregated by age, sex, disability, geographic location, ethnic origin and socioeconomic background in order to facilitate analysis on the situation of all children, particularly those in situations of vulnerability. Furthermore, the Committee recommends that the data and indicators be shared among the ministries concerned and used for the formulation, monitoring and evaluation of policies, programmes and projects for the effective implementation of the Convention. In this context, the Committee also recommends that the State party strengthen its technical cooperation with, among others, UNICEF, regional mechanisms and the Inter-American Children’s Institute.

C. General principles (arts. 2, 3, 6 and 12 of the Convention)

Best interests of the child

25. While noting that article 6 of the Code on Childhood and Adolescence incorporates the principle of the best interests of the child, the Committee is concerned that this right is not always respected, particularly in judicial and administrative decisions and when children are separated from their parents. The Committee also notes with concern the impossibility to appeal or revise decisions when this right has not been respected.

26. In the light of its general comment No 14 (2013) on the right of the child to have his or her best interests taken as a primary consideration, the Committee recommends that the State party:

(a) Strengthen its efforts to ensure that this right is appropriately integrated and consistently applied in all legislative, administrative and judicial proceedings and decisions, as well as in all policies, programmes and projects that are relevant to and have an impact on children;

(b) Develop procedures and criteria to provide guidance to all relevant persons in authority for determining the best interests of the child in every area and for giving it due weight as a primary consideration; and

(c) Establish an effective mechanism within their legal systems to appeal decisions taken without a proper assessment of children’s best interests.
E. Family environment and alternative care (arts. 5, 9-11, 18 (paras. 1 and 2), 20-21, 25 and 27 (para. 4))

Family environment

35. While noting as positive the State party’s legal obligation to provide support to families in vulnerable situations, the Committee is concerned that support services for families at risk of losing parental responsibility are still inadequate. The Committee is also concerned about the lack of a comprehensive strategy addressing issues such as domestic violence, mental health, substance abuse and poverty with a view to preventing the separation of children from their family environment.

36. The Committee recommends that the State party strengthen its support services for disadvantaged and marginalised families, including financial and psychological support to assist parents in fulfilling their responsibilities for the upbringing and development of children. The Committee also recommends that the State party develop a comprehensive strategy aimed at supporting families and reinforce its care system with a view that effectively includes a child-rights perspective.

Children deprived of a family environment

37. While welcoming the efforts made by the State party to provide family and community based alternatives for children deprived of a family environment, the Committee remains concerned about the high number of children placed in full-time institutional care and that siblings are not placed in the same institution. Despite the measures adopted for the deinstitutionalization and/or reunification of these children with their biological families, the Committee remains concerned about the limited impact of such measures. The Committee also notes with concern the lack of an adequate mechanism to monitor the placement of children in foster care and institutions.

38. Drawing the State party’s attention to the Guidelines for the Alternative Care of children (General Assembly resolution 64/142, annex), the Committee recommends that the State party:

(a) Continue to support a system of foster care for children who cannot stay with their families, with a view to reducing the institutionalization of children;
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<td>(b) Ensure adequate safeguards and clear criteria, based on the best interests of the child, for determining whether a child should be placed in alternative care;</td>
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<td>(c) Ensure periodic review of decisions about placement of children in foster care and institutions, and monitor the quality of care therein, including by providing accessible channels for reporting, monitoring and remedying maltreatment of children;</td>
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<td>(d) Ensure that adequate human, technical and financial resources are allocated to alternative care centres and relevant child protection services, in order to facilitate the rehabilitation and social reintegration of children; and</td>
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<td>(e) Intensify its efforts in the implementation of measures for the deinstitutionalization of children currently living in institutions and ensure, whenever possible and in their best interests, the reunification with their families.</td>
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**Adoption**

39. While welcoming the legal amendments in relation to the adoption process, the Committee remains concerned about the lengthy adoption procedures, particularly due to the lack of technical staff to undertake assessments of adoption applications.

40. The Committee recommends that the State party adopt all necessary measures to ensure that adoption procedures are dealt with in the shortest possible timeframe and to this end, ensure that all institutions involved in this procedure are provided with adequate human, technical and financial resources.

**Children in prison with their mothers**

41. The Committee is concerned about the inadequacy of the prison facilities for children living in prisons with their mothers and the non-application of article 8 of Act 17.897 on Probation that allows women to be placed under house arrest during the last trimester of pregnancy and the first three months of breastfeeding.

42. The Committee strongly recommends that the State party:
(a) Take effective and urgent measures to ensure adequate living conditions for children in prison with their mothers, including access to health and education services;
(b) Ensure the effective implementation of Article 8 of Act 17.897 on Probation;
(c) Ensure that the principle of the best interests of the child is applied by competent child professionals prior to and during their stays with their detained mothers; and
(e) Seek technical assistance from UNICEF and other relevant partners in this regard.

H. Special protection measures (arts. 22, 30, 32-33, 35-36, 37 (b)-(d), 38, 39 and 40)

Unaccompanied children

63. Despite the information provided by the State party, the Committee is concerned about the lack of a special procedure for dealing with the protection of unaccompanied migrant children. The Committee is also concerned about information on the absence of a procedure for the appointment of a guardian and a legal representative for unaccompanied children.

64. In light of its general comment No. 6 (2005) on treatment of unaccompanied and separated children outside their country of origin, the Committee recommends that the State party introduce comprehensive legislation ensuring the assistance and protection of unaccompanied migrant children. In particular, the Committee recommends that the State party establish a specific and permanent national authority to oversee the condition of unaccompanied migrant children, identify their needs and address challenges in the current system, and to develop operational guidelines on unaccompanied migrant children, including on reception, identification, needs assessment and protection strategy.

Children in street situations

67. While noting the establishment of the Street and Extreme Street Programmes adopted by the State party to provide support to children in street situation, the Committee is seriously concerned about the lack of updated information on the number of children in such situations and the lengthy change from a punitive to a human rights based approach of such programmes. The Committee is also concerned about reports of abuses of children in street situations by the police. The Committee also
regrets the lack of social services and reintegration measures available for their recovery and reintegration.

68. The Committee recommends that the State party:

(a) Develop and implement, with the active involvement of the children themselves, a comprehensive policy to address the root causes, in order to prevent and reduce this phenomenon;

(b) Strengthen services by training more personnel, developing individualized rehabilitation programmes for reintegrating children into society;

(c) Address the issue of violence by police against children in street situation, and bring perpetrators to justice;

(d) In coordination with NGOs, provide children in street situations with the necessary protection, including shelter, adequate health-care services, the possibility to attend school and other social services; and

(e) Support family reunification programmes or alternative-family settings when that is in the best interests of the child.

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VI. Prohibition of the sale of children, child pornography and child prostitution and related matters (arts. 3; 4, paras. 2 and 3; 5; 6 and 7)

Existing criminal or penal laws and regulations

25. While noting that the Act on Commercial and Non-commercial Sexual Violence against Children, Adolescents and Persons with Disabilities of 2004 and the Act on Migration of 2007 prohibit child prostitution and child pornography, the Committee is concerned that the criminal legislation does not contain all the definitions of criminal offences as provided by article 2 of the Optional Protocol. The Committee also notes with concern that sale of children is not clearly defined in the State party’s legislation and the transfer of organ of the child for profit and the engagement of the child in forced labour have not been criminalized as cases of sale of children. The Committee also notes with concern that all activities related to child pornography have not been included in the criminal legislation as specified in article 3 paragraph 1 (c) of the Optional Protocol.

26. The Committee recommends that the State party revise and bring its Criminal legislation into full compliance with articles 2 and 3 of the Optional Protocol. In particular, the State party should ensure that all of the following offences are explicitly criminalized:

(a) The sale of children by offering, delivering or accepting, by whatever means, a child for the purpose of sexual exploitation, transfer of organs of the child for profit, engagement of the child in forced labour or improperly inducing consent, as an intermediary, for the adoption of a child in violation of the applicable legal instrument on adoption;

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Acronyms and Abbreviations:

CEDAW  Convention on the Elimination of All Forms of Discrimination against Women  
CRC  Convention on the Rights of the Child/Committee on the Rights of the Child  
CRPD  Convention on the Rights of Persons with Disabilities  
ICCRP  International Covenant on Civil and Political Rights  
ICESCR  International Covenant on Economic, Social and Cultural Rights  
OPAC to CRC  Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict  
UN  United Nations  
UPR  Universal Periodic Review