

COMMITTEE ON THE RIGHTS OF THE CHILD

Forty-sixth session

**CONSIDERATION OF REPORTS SUBMITTED BY STATES
PARTIES UNDER ARTICLE 12 (1) OF THE OPTIONAL
PROTOCOL TO THE CONVENTION ON THE RIGHTS OF THE
CHILD ON THE SALE OF CHILDREN, CHILD PROSTITUTION
AND CHILD PORNOGRAPHY**

CONCLUDING OBSERVATIONS: BULGARIA

1. The Committee considered the initial report of Bulgaria (CRC/C/OPSC/BGR/1) at its 1266th and 1267th meetings, held on 24 September 2007, and adopted at its 1284th meeting, held on 5 October 2007, the following concluding observations.

Introduction

2. The Committee welcomes the submission of the State party's initial report, which provided detailed information on legislative, administrative, judicial and other measures applicable in Bulgaria in respect of the rights guaranteed by the Optional Protocol. The Committee also appreciates the written replies to its list of issues as well as the constructive dialogue with the delegation.

I. General Guidelines

3. The Committee reminds the State party that these concluding observations should be read in conjunction with its previous concluding observations adopted on the State party's initial report on 8 January 1997 contained in CRC/C/15/Add.66.

A. Positive aspects

4. The Committee notes with appreciation:

- (a) The amendments made to the Penal Code in 2002;
- (b) The adoption of the Combating of Trafficking of Persons Act in 2003.

5. The Committee further notes with appreciation the State party's ratification of:

- a. The Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organised Crime in 2001;
- b. The Protocol Against the Smuggling of Migrants by Land, Sea and Air, supplementing the UN Convention against Transnational Organised Crime in 2001;
- c. The ILO Convention No. 182 concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour in 2000;
- d. The Council of Europe Convention on Action against Trafficking in Human Beings in 2007;
- e. The Council of Europe Convention on Cybercrime in 2005.

B. General principles on the Convention on the Rights of the Child (arts. 2, 3, 6 and 12)

6. The Committee is concerned that the general principles of the Convention on the Rights of the Child have not sufficiently been taken into account in the measures of implementation adopted by the State party under the Protocol. The Committee is particularly concerned about societal attitudes faced by Roma children which affect protection and prevent their full enjoyment of the rights enshrined in the Protocol.

7. The Committee recommends that the general principles of the Convention of the Rights of the Child, in particular the principle of non-discrimination, is included in all measures of the State party to implement provisions of the Protocol on the sale of children, child prostitution and child pornography, including judicial or administrative proceedings.

II. Data

8. While noting that data is primarily collected by the National Statistics Institute and additionally by various institutions, the Committee regrets the lack of reliable data disaggregated by age, sex and ethnic or social origin as well as the lack of research on the areas covered by the Protocol.

9. The Committee recommends that the State party ensure that in-depth studies are undertaken into issues covered by the Protocol and that a uniform information system be established in order to ensure that data, disaggregated *inter alia* by age, sex and ethnic or social origin are systematically collected and analysed as they provide essential tools for assessment, policy development and implementation.

III. General measures of implementation

National Plan of Action

10. The Committee welcomes the development of a ten-year National Strategy for Children as well as various sectorial national and regional strategies and programmes for child protection. However, it is not clear whether these strategies and programmes provide for the implementation of the Optional Protocol.

11. The Committee recommends that the State party incorporate the implementation of the specific obligations arising from the Protocol in its national strategies and programmes in consultation and cooperation with relevant stakeholders, by taking into account the Declaration and Agenda for Action and the Global Commitment adopted at the First and Second World Congresses against Commercial Sexual Exploitation of Children (Stockholm 1996; Yokohama 2001).

Coordination and evaluation

12. The Committee takes note of the information that the State Agency for Child Protection and various other bodies are involved in implementing the Optional Protocol. However, the Committee is concerned at the lack of a specific governmental body coordinating the activities and evaluating the implementation of the Protocol.

13. The Committee encourages the State party to strengthen existing coordination and establish a specific mechanism for coordination, periodic evaluation and implementation of the areas covered by the Protocol. In this regard the Committee recommends that the State party provides this mechanism with specific and sufficient, human and financial resources to enable it to be fully operational.

Independent institutions

14. The Committee welcomes the establishment of the Office of the Ombudsman in 2004 and the election of the Ombudsman in 2005. However, the mandate and powers of the Ombudsman do not include the monitoring and promotion of international human rights instruments such as the UN Convention on the Rights of the Child and its Protocols.

15. The Committee recommends that the State party, in accordance with the Paris Principles and by taking into consideration the Committee's general comment No. 2 (2002) on National Human Rights Institutions, expand the mandate of the Ombudsman to include the monitoring and promotion of international human rights instruments. The Committee further recommends that an Ombudsman for Children or a Deputy Ombudsman specialized in children's issues be appointed and allocated with sufficient human and financial resources.

Dissemination and training

16. The Committee appreciates the numerous training and dissemination activities, provided by the State party in collaboration with international organisations and

NGOs such as those regarding civic education, human rights education, raising awareness about measures set forth in the Protocol. However, the Committee remains concerned that efforts to raise awareness among relevant professional categories and the public at large on the Protocol and to provide adequate training for judges, prosecutors and social workers who are working with and for children and the public at large are not systematic and that they do not cover all areas of the Protocol.

17. The Committee recommends that the State party continue and strengthen its training and dissemination activities and allocate adequate and earmarked resources for the development of training materials and courses, covering all areas of the Protocol, for all relevant professionals including police officers, public prosecutors, judges, medical staff, media and other professionals involved in its implementation. The Committee further recommends, in the light of article 9(2) of the Protocol, that the State party make the provisions of the Protocol widely known, particularly to children and their families, through, inter alia, school curricula, long-term awareness-raising campaigns and training about the preventive measures and harmful effects of all offences referred to in the Protocol including by encouraging participation of the community and, in particular, children and child victims, civil society organisations and organisations in the travel and tourism industry.

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

Measures adopted to prevent offences referred to in the Protocol

18. The Committee notes the efforts undertaken by State and municipal authorities in order to prevent offences referred to in the Optional protocol. However, the Committee is concerned that targeted preventive measures against exploitation of children, including prostitution, pornography and engagement of the child in forced labour, as well as measures to identify the causes and extent of the problem remain limited.

19. The Committee encourages the State party to:

- (a) Adopt specific legislation on the obligations of internet service providers in relation to child pornography on the Internet;**
- (b) Undertake research on the effects of the previous actions taken and on the nature and extent of exploitation of children, including prostitution and pornography, to identify children at risk and the extent of the problem;**
- (c) Seek, for the purpose of more effective prevention in the areas covered by the Protocol, technical assistance from inter alia, UNICEF and other international organizations and agencies;**
- (d) Undertake targeted preventive measures and cooperate with international organizations and non-governmental**

organizations concerning the implementation of awareness raising campaigns on all areas covered by the Protocol.

20. The Committee is deeply concerned about the difficult situation of certain groups of children, such as Roma children, street children and children with disabilities, who are particularly vulnerable to all forms of exploitation.

21. The Committee urges the State party to pay increased attention to the situation of vulnerable groups of children who are at particular risk of being victims of offences referred to in the Protocol. In this respect it recommends that the State party allocate adequate human and financial resources for the implementation of targeted programmes for the prevention of violations of the rights of particularly vulnerable children, with special attention to their education and health care. More attention should also be devoted to raising awareness among these children of their rights.

Helpline

24. The Committee welcomes the planned establishment of the Child helpline in collaboration with UNICEF and a NGO and recommends the State party to ensure that the helpline is accorded a 3-digit, 24-hour, toll-free number to assist child victims. In this regard, it recommends that the State party ensure that children are aware of and can access the helpline. Furthermore, the State party is encouraged to facilitate the collaboration of the helpline with child-focused NGOs and the police, as well as health and social workers.,

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

Existing criminal or penal laws and regulations

25. While commending the amendments made to the Penal Code to bring it into conformity with the Protocol, the Committee remains concerned that all legislation is not yet in conformity with the Protocol, such as the lack of a clear definition of child prostitution and child pornography in accordance with article 2 (b) and (c) of the Protocol.

26. The Committee recommends that the State party review its legislation with a view to bringing it into full conformity with the Protocol, including introducing definitions of child prostitution and child pornography which will enable it prosecute the perpetrators of these offences. Furthermore, the Committee encourages the State party to amend criminal law provisions so as to fully include all the offences regarding child prostitution and child pornography in accordance with article 3(b) and (c) of the Protocol.

Legal aspects of adoption

27. The Committee, while welcoming the ratification of the Hague Convention No. 33 on Protection of Children and Cooperation in Respect of Intercountry Adoption in 2002, and the significant efforts of the State party to counter illegal

adoptions, remains concerned that illegal and exploitative practices continue to exist in Bulgaria, especially concerning inter-country adoption.

28. The Committee recommends that the State party undertake urgent measures, including anti-corruption measures, in order to continue to combat sale of children for adoption by taking into account article 3 of the Protocol, article 21 of the Convention on the Rights of the Child and the provisions of the 1993 Hague Convention on Protection of Children and Cooperation in Respect of Inter-country Adoption.

VI. Protection of the rights of child victims

Measures adopted to protect the rights and interests of child victims of offences prohibited under the Protocol

29. The Committee notes with appreciation the reform of the Criminal Procedure Code of 2005, which establishes the new status of the victim, in particular the child victim. However, the Committee is concerned that the State party does not have a separate specialized judiciary unit which can deal with child victims of crimes related to the Protocol. Furthermore, the Committee regrets that the professionals are not sufficiently trained, at the lack of child-psychiatrists and the lack of information on concrete programmes of rehabilitation for the child victim and data on financial compensation to victims.

30. The Committee recommends that the State party:

(a) Continue to strengthen, in light of article 8 (1) of the Optional Protocol, its measures to protect the rights and interests of the child victims and witnesses of the offences prohibited under the Optional Protocol at all stages of the criminal justice process, by taking into account the UN Guidelines on Justice in Matters involving Child Victims and Witnesses of Crime (ECOSOC Resolution No. 2005/20);

(b) Establish a separate specialized juvenile judiciary unit dealing with child victims, such as a separate juvenile justice system, in conformity with international standards (see also recommendations (CRC/C/15/Add.66).

(c) Continue developing specialized medical and psychological care services for child victims, and, in light of article 9 of the Protocol, take measures with the aim of ensuring all appropriate assistance to child victims, including their social reintegration and physical and psychological recovery, including by ensuring access and availability of professionals working with child victims throughout the Country;

(d) Take measures to ensure appropriate training, particularly legal and psychological, for persons working with child-victims of

the offences prohibited under the Protocol, in accordance with article 8 (4) of the Optional Protocol;

(e) Continue and strengthen the collaboration with non-governmental organizations and IOM in order to ensure that adequate services are available for child victims;

(f) Ensure that all child victims have access to adequate procedures to seek, without discrimination, compensation for damages from those legally responsible, in accordance with article 9 (4) of the Optional Protocol.

31. The Committee is concerned that child victims of crimes covered by the Optional Protocol may be stigmatized and socially marginalized and may be held responsible, tried and placed in detention.

32. The Committee urges the State party to take all possible measures to avoid stigmatization and social marginalization of child victims of the offences covered by the Optional Protocol and to ensure that these children are neither criminalized nor penalized.

VII. International assistance and cooperation

Law enforcement

33. The Committee encourages the State party to continue establishing legal and practical cooperation with other States in order to prevent crimes and prosecute offenders and sanction those responsible. The Committee also recommends that the State party strengthen its regional and international judicial, police and victim-oriented cooperation activities with other States and international organizations with a view to preventing and combating the sale of children, child prostitution and child pornography as well as to assist the return of child victims to the country of origin, but only be arranged when it is in its best interests. In this respect, the Committee draws the attention to its General Comment No. 6 (CRC/GC/2005/6) on the treatment of unaccompanied and separated children outside their country of origin.

VIII. Follow-up and dissemination

Follow-up

34. The Committee recommends that the State party take all appropriate measures to ensure full implementation of the present recommendations, *inter alia*, by transmitting them to relevant Government Ministries, the Narodno Sobranie and to local authorities, for appropriate consideration and further action.

Dissemination

35. The Committee recommends that the report and written replies submitted by the State party and related recommendations (concluding observations) adopted be made widely available, including through the internet

(but not exclusively), to the public at large, civil society organizations, youth groups, professional groups, and children, in order to generate debate and awareness of the Protocol, its implementation and monitoring.

IX. Next report

36. In accordance with article 12, paragraph 2, the Committee requests the State party to include further information on the implementation of the Protocol in its next periodic report under the Convention on the Rights of the Child, in accordance with article 44 of the Convention.