



ngo group for the crc

## STATE PARTY EXAMINATION OF BELARUS'S THIRD AND FOURTH PERIODIC REPORT

56<sup>TH</sup> SESSION OF THE COMMITTEE ON THE RIGHTS OF THE CHILD

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*Belarus ratified the Convention on the Rights of the Child (CRC) on 1 October 1990. On 25 January 2011, the Committee on the Rights of the Child (the Committee) examined the third and fourth periodic report of Belarus. It was last examined on 27 May 2002.*

### Opening Comments

The delegation of Belarus was led by Mr. Viktor Yakzhik, Deputy Minister of Education. He was supported by a delegation of representatives from the Ministry of Foreign Affairs, Ministry of Interior, Ministry of Labour and Social Protection and the Permanent Mission in Geneva.

Mr. Yakzhik was honoured to present the third and fourth combined periodic report of Belarus and explained that it was a compilation of information from all relevant government bodies and NGOs. Like the Written Replies to the Committee's List of Issues, the presentation highlighted the current trends, statistics and data, to provide the Committee with an understanding of the implementation of the CRC in Belarus. Mr. Yakzhik emphasised the coordinating role of the 1996 National Commission on the Rights of the Child, which was responsible for monitoring children's rights and examining complaints and included representatives from the government and NGOs. With regard to the State's priorities, Mr. Yakzhik noted several times the devastation of the 1986 Chernobyl disaster, which diminished the population of Belarus and had concerning effects on health, including on the healthy development of children. As a result of this disaster, Belarus had prioritised demographic security and increasing the birth rate. In 2010 alone, the government spent 30 million US dollars on children's health and with the help of UNICEF, opened medical, psychological, HIV/AIDS and drug centres for teens and youth.

Mr. Yakzhik noted that Belarus surpassed many countries with high development potential and drew attention to other positive developments in Belarus. First, education was free and mandatory for the first nine years and 99.8 per cent of the youth were literate. Additionally, more than 62 per cent of children with disabilities were ensured preschool education, a significant increase from 43 per cent in 2000. There were also youth associations and courses on human rights. Furthermore, the social protection system was comprehensive, providing financial support for more than 25 per cent of the concerned children's families and extending to older youth to ensure professional education up to age 23. Mr. Yakzhik also noted areas that required more work, including reducing the number of children in orphanages and strengthening activities to prevent violence and the violation of rights. With regard to juvenile justice, Mr. Yakzhik stated that Belarus had agreed to only apply the most positive measures and use imprisonment as a last resort. To conclude, Mr. Yakzhik stated that this interactive dialogue demonstrated the delegation's commitment to improving the situation of children in Belarus.

Mr. Zermatten, the Country Rapporteur, thanked the head of delegation for opening with an impressive list of improvements since the last report in 2002. Mr. Zermatten took note that children in Belarus were still affected by the Chernobyl disaster, exposed to radiation and its consequent health risks. With regard to progress, Mr. Zermatten noted Belarus's achievement of the MDG for eradicating poverty and hunger and the State's new strategy to decrease institutionalisation. Mr. Zermatten also noted the new legal instruments on the status of refugees and the amendment of a law on domestic violence. Nevertheless, Mr. Zermatten stated that there were still obstacles and areas where progress could be made and sought clarification on legislation, coordination, monitoring and the State's relationship with NGOs.

## **General Measures of Implementation**

### ***Legislation***

The Committee noted that legislation took the form of presidential decrees, rather than laws, even though they would be stronger as laws. The Committee was concerned that this process did not ensure legislative continuity and raised questions about the role of Parliament. The delegation explained that presidential decrees were designed to be an immediate reaction to address a specific issue. Over time these standards and rules would become laws; laws were planned, considered and adopted by Parliament.

The Committee also thought it was unclear whether the courts could handle decisions and directly apply the CRC. The delegation stated that the courts worked fully in accordance with the CRC. The delegation stated that international treaties had direct legal applicability.

### ***Budget***

The Committee noted that the GDP had climbed significantly and there had been massive reduction in the poverty rate. Nevertheless, there was little information about budget allocation for children's health, education and protection. The Committee wanted to know how the high inflation rate (200 per cent) was accounted for in the budget and whether there was real growth, as in GDP terms the budget allocation appeared to have shrunk between 2006 and 2008. Despite the State's low economic status, the delegation stated that allocating funds for children and parents was of key interest. Belarus had increased its government expenditures to improve children's wellbeing and the delegation said this funding would continue.

The Committee restated the question of whether an increased percentage of the improved GDP had been allocated to children's services, education, and health. The delegation described the plans for 2011-2015, noting that the bottom line was that there would be increases in government expenditures on children's programmes. This had been a Concluding Observation from 2002 and the delegation said it had fulfilled the recommendation.

### ***Children's ombudsman***

The Committee wanted to know whether Belarus was in the process of establishing an independent ombudsman's office, as the status of the National Commission on the Rights of the Child did not seem to meet the criteria set out in the Paris Principles. The Committee also wanted to know whether, if established, this independent monitoring institution would be able to receive complaints.

The delegation explained that the status and composition of the National Commission changed in 1996, but that its work continued and the Vice Premier had an influence over its effectiveness. The Committee noted that the Commission was not independent if it had the mandate to coordinate and was headed by the Deputy Minister or Vice Premier. The Committee noted that the Commission had not met for two years, and asked how the coordination could still be carried out. The Committee also asked how many civil society and international organisations were represented. The delegation said that the new composition was planned to take effect in 2011 and described the previous composition of the Commission, made up of various governmental bodies and three representatives from NGOs. The delegation assured that the work of the Commission would continue.

The Committee asked if the delegation was in full support of the establishment of an Ombudsman's office. The delegation fully respected the recommendation of the Committee and understood that specific measures were needed to protect children and their rights. The delegation did not think that an Ombudsperson was called for by bureaucratic means and said that under the National Commission an institution like an Ombudsperson could be developed.

### ***Coordination***

The Committee noted that there was the 1996 National Commission on the Rights of the Child and the Commission for Minors' Affairs and wondered who was responsible for coordination between ministries on one hand and between the State and municipalities on the other.

The Committee also inquired about the link between the 2004-2010 National Action Plan, and the 2006-2010 "Children of Belarus" Presidential Programme, as it seemed that the Presidential Programme had a budget, but the National Action Plan did not. The delegation explained that the National Plan of Action was designed to ensure the interests of children in all areas of life. The "Children of Belarus" Presidential Programme was the first of many programmes that envisaged the implementation of the 2004-2010 National Action Plan. The delegation described its plan to adopt the "Children in Belarus" Presidential Programme up to the year of 2015, which would allow the State to continue to protect children's rights.

With regard to the question on budget, the delegation stated that it was not just talking about the "Children of Belarus" Presidential Programme which had funding from local and State budgets, but also a more targeted budget. In response to further questions on funding, the delegation explained that the "Children of Belarus" Programme for 2011-2015 took into consideration the opinions of NGOs and government bodies. It relied on government funding but it would consider the opinions of the entire society.

### ***Dissemination and training***

The Committee noted that the State should make the CRC widely known to children and adults. The Committee took note of the National Action Plan and the integration of human rights education, but said it was unclear how the CRC, and laws based on the CRC, were disseminated to families, the general public, and minority population groups. The Committee was particularly concerned about how dissemination was sustained, how the State ensured that the media appropriately dealt with children's issues, and how professionals were trained.

The delegation stated that special training was given on the direct application of the CRC provisions. With regard to dissemination, the Ministry of Education and other organisations circulated the CRC via information booths, activities and the school curriculum. There was also a new website that published information on the CRC, a forum for children to exchange information and social cartoons on TV that aimed to address children and parents.

### ***Implementation***

The Committee wanted to know whether the CRC was directly applicable and asked about the practice of jurisprudence in Belarus.

### ***The role of non-governmental organisations***

The Committee noted that working for an unregistered NGO was a criminal offence, but wanted to know what happened in practice. The Committee also asked for more information regarding the role of NGOs. The delegation affirmed that legislation required NGOs to be registered and reported that in 2010, 105 NGOs were formed.

### ***Data***

The Committee wanted more information on national databases, and specifically disaggregated data on the different populations and the existence of Roma children.

## **General Principles**

### ***Non-discrimination***

The Committee noted the widespread discrimination of the Roma, particularly in terms of access to health, education and social services. The Committee asked whether there were plans, in addition to legislation, to reduce this problem. The delegation estimated that there were 2,000 Roma children who were not receiving education nor were integrated into society.

With respect to other groups, the delegation noted that nine schools provided education in Polish and nine schools provided schooling in Lithuanian. There were also around 500 institutions providing cultural studies, festivals, etc. The delegation acknowledged that there were many ethnic groups and minorities, but said there was no racial persecution.

### ***Best interest of the child***

The Committee asked whether the best interest principle was applied in the procedures for unaccompanied children.

### ***Survival and development***

The Committee wanted to know whether children who become adults before age 18, through marriage, would be subjected to the death penalty. The delegation stated that the death penalty would not be applied against women or children under 18 years. The age of criminal

responsibility was 16 years, and could be 14 years for particularly aggravated offences, the maximum sentence for which was 10 years.

### ***Respect for the views of the child***

The Committee noted that Belarus seemed to have *symbolic* young people's parliaments because there was no real child involvement. The Committee also noted that the State report said minors under 10 years had the right to be heard, but wanted to know whether children above the age of 10 also had this right in judicial hearings.

The delegation stated that respect for the rights of children was of continual concern to the municipal agencies and would like to see more projects to strengthen platforms for children's voices to be heard.

## **Civil Rights and Freedoms**

### ***Access to appropriate information***

The Committee wanted to know what measures were being taken to make sure that children's access to information was appropriate. According to the Committee's information, opinion websites had been locked. The delegation did not know of any examples of sites being closed, but said that the internet could only be closed by the court, not by state bodies. The delegation also stated that teachers were trained on the moral aspects of internet access because 100 per cent of schools and 90 per cent of families had computers.

### ***Child participation***

The Committee asked for information on child participation in creating and evaluating the National Action Plan. The delegation stated that there were many child associations and that the government provided methodological assistance. Furthermore, the State analyzed and tried to include children's proposals in government programmes.

### ***Corporal Punishment***

The Committee asked whether the law prohibited corporal punishment in all areas and whether Belarus had taken measures to promote positive discipline. The delegation noted that there was no provision for this and that Belarus needed to work further on solutions for general educational institutions and schools.

### ***Violence by the State***

The Committee was concerned about the safeguards put in place by the State to ensure the protection of children. The Committee noted that domestic violence was being addressed with a specific strategy, but that violence by the State needed to be eliminated with clear rules that punished these crimes. The delegation stated that Belarus was working to prevent violence. With regard to the number of cases of violence by police or other law enforcement officials, the delegation said that there were very few cases, or rumours of such cases. If there were actual cases, they would be brought to the public's attention immediately. The delegation explained that when a child was held in police custody, a lawyer and psychologist must represent his or her interests; without the presence of a lawyer and psychologist, an investigation could not be carried out.

The Committee wanted to know what mechanisms were used to extract confessions from young people. The Committee noted that seven adolescents were detained after the elections

last year and wanted to know what had happened to them. The delegation stated that all minors involved were immediately released.

### ***Name and Nationality***

The Committee asked whether children who were born to stateless parents were conferred with Belarusian citizenship. The Committee also asked whether the State was going to ratify the UN Convention relating to the Status of Stateless Persons and the Council of Europe's Convention on the avoidance of statelessness in relation to State succession. The delegation said Belarusian legislation was in line with the 1961 Convention on the Reduction of Statelessness and that it would consider accession to the aforementioned conventions in the future. Belarus had addressed the Office of the High Commissioner for Refugees and agreed on a specific plan of action for the new laws and measures to take. Practically speaking, the question of statelessness was complex because it needed financing.

### ***The right to freedom of thought and religion***

The Committee asked if legislation ensured the freedom to worship and whether children were able to express their ideas and religion without harm to their physical and psychological integrity.

## **Family Environment and Alternative Care**

### ***Living conditions and standards***

The Committee noted that most families were living just above the poverty threshold by way of the benefit system, but noted that the financial situation of many of these families could deteriorate quickly if there was another economic crisis. The Committee noted that the policy on social benefits, which supported families with more than three children, was successful in the short-term, but not in the long-term. The Committee emphasised the need to identify the causes of poverty.

### ***Parental responsibility***

According to the Written Replies, 48 per cent of children suffered from parental neglect. The Committee asked about the application and the philosophy of Presidential Decree 18, which seemed to employ the punitive approach to ensuring parental responsibility. The Committee stated that separation of a child from his or her parents was not always in the child's best interest and wanted to know whether there were programmes to empower parents in taking on their responsibilities for the wellbeing of their child or children. The delegation explained that Presidential Decree 18 introduced a standard for doing preventive work with families. The system that existed before 2006 was the more punitive system.

### ***Alternative care***

The Committee asked about the procedure for considering alternative care settings to institutions, noting that there were still 30,000 children in the alternative care system. The delegation explained that the issue of orphans and orphanages had not been addressed until 2006, but that more recently, with increased government assistance, Belarus had seen a 60 per cent reduction in the number of children in orphanages and an increase in the number of children in foster care. By 2015, Belarus would aim to close at least half of the currently operating orphanages.

The Committee noted that the correct term was not “orphanage” but “residential home” because the children being discussed did have biological families. Furthermore the Committee supposed that the reference to foster homes really referred to big group homes. The delegation noted that there were four types of foster care settings: family-related hosting (kin that take in the children); professional families (not members of kin); children’s homes (a State-run home for 5 to 10 children); and children’s villages or towns (300 children in 6 different villages).

The Committee was concerned that Presidential Decree 18 enabled a child to be removed from its family environment on the basis of a judicial decision and asked the delegation to clarify whether the parents were removed by court decision or by the Commission of Minor Affairs, as was stated in the Written Replies. The delegation stated that this was not a higher political process; it was a practical issue that was being dealt with through prevention at the earliest stage. Up until 2006, parental rights could be contested in court, but this standard was no longer effective. The delegation explained that the majority of the children who were removed from their families had been moved into some type of family upbringing, e.g. foster families or children’s centres, but not orphanages. The delegation noted that the past system threatened the health and life of children because it required waiting for the court decision; the mechanism today avoids the wait period.

### ***Adoption***

The Committee asked about the administrative process for adoption and whether an institution of central authority would stop illicit transfers. The Committee noted that an agreement between Italy and Belarus made it possible for children to go to Italy for a period of time, but that some ended up staying for adoption. The delegation said it had a number of agreements with Italy, but was not aware of the situation that the Committee cited.

## **Basic Health and Welfare**

### ***Children with disabilities***

Despite good initiatives, the Committee was under the impression that resources were *not* being invested in a community-based, integrated approach to children with disabilities but instead the State continued to treat disabilities as a disease.

### ***Health services***

The Committee asked whether the full range of coverage and the full range of services, as specified in the State report, were actually guaranteed for all children and whether measures were being taken to limit the negative effects of the Chernobyl Disaster on women’s reproductive health.

The delegation stated that children’s health was a core concern and that in response to the Chernobyl disaster, proper health care for everyone was a priority. Every year people who were living in areas affected by the Chernobyl Disaster were examined with the best quality of medical equipment. Women’s reproductive health was subjected to particular examination.

### ***Rehabilitation***

The Committee asked about the rehabilitation of children who had been abused.

### ***HIV/AIDS***

The Committee noted that the rate of HIV/AIDS incidences was roughly the same each year and asked whether there was a targeted programme to prevent this infection from spreading, e.g. distribution of syringes, condoms, and increased educational campaigns. The delegation did not want to deny the importance of HIV/AIDS, but stated that HIV/AIDS was not an epidemic in Belarus. Nevertheless, the State was taking measures to ensure that children were properly informed, particularly in regions with higher prevalence, such as the Gomel province.

### ***Drug and alcohol issues***

The Committee noted widespread alcohol abuse, which led to problems in the family. The Committee noted that public health efforts would be part of the answer, but that there were other measures that should be taken too. The delegation said that Belarus was working with different organisations to prevent addiction and alcoholism and would continue its work. By 2009 there had been a 25 per cent reduction in alcohol-related illness and a 41 per cent reduction in tobacco usage.

### ***Adolescent Health***

With regard to the Committee's questions on suicide, the delegation explained that it was working to prevent suicide through the Ministry of Education. A social survey for adolescents on suicide showed that the basic causes were psychological problems, problems in the family and unrequited love affairs. The State had set up a hotline to provide immediate assistance.

The Committee asked how the health policies responded to new challenges, such as adolescent social and emotional wellbeing. The Committee wanted to know whether the health policies addressed the social determinants of health, because the specialised (Soviet) approach to health was outdated. The delegation noted that amendments had been made on the laws on education concerning psychological health and this issue was being addressed from a medical and educational point of view. The next related action plan, developed with the help of UNICEF, would continue to look at these issues from multiple perspectives.

### ***Abortion***

The Committee noted the high level of abortions being performed on girls between the ages of 15 and 17 years, and asked whether there was a comprehensive programme to support these children, as well as places for adolescents to seek medical consultations without parental consent. The delegation acknowledged that abortion was a problem and that the State, with the help of UNICEF, was working to increase contraception to prevent teenage pregnancy and abortion. The delegation affirmed that adolescents could seek help anonymously.

### ***Hospice care***

The Committee noted that there were several hospices for children, but that they were reliant on NGOs. The Committee asked whether the State would properly fund this and what measures had been taken to improve these services.

### ***Traditional practices***

The Committee asked whether appropriate measures had been taken to abolish traditional practices that would be detrimental to health, e.g. FGM and early marriage. The delegation stated that there were people who followed Islam in Belarus who had traditions that could be threatening, e.g. honour killings, but stated that Belarus had not seen any cases of this.



## **Education, Leisure and Cultural Activities**

### ***Human Rights Education***

With regard to the Committee's questions on education, the delegation explained that the quality of education was the foundation of the education system. The delegation stated that human rights and the rights of the child were main elements of the national school curricula and were mandatory courses for young and adolescent students. Furthermore there was advanced training for teachers with special courses on human rights. The delegation highlighted the publications on human rights, including guidebooks on human rights.

The Committee noted that the UNICEF "Child-friendly schools" recommended that children's rights should be applied, not just taught, in the daily lives of children. The delegation stated that the quality of education rested on the fact that this information was received on a daily basis, but acknowledged that Belarus had to work on the application of this knowledge in practice.

### ***Leisure and cultural activities***

The Committee wanted to know whether all children had access to activities such as the library, music and theatre and asked whether cultural diversity was kept in mind.

## **Special Protection Measures**

### ***Asylum seekers***

The Committee welcomed the new law for asylum seekers, but asked whether a guardian was appointed from the very beginning of the procedure as it was crucial for the child to have a guardian, someone to confide in, so the child could decide what was best for him or her.

The delegation noted that in 2009 a new law granted refugees temporary or permanent legal status. From this act, unaccompanied foreign minors received the rights that all citizens enjoy. The delegation said Belarus had collected statistics and found that there of the 502 foreigners with refugee status, 167 were minors. The delegation did not have information or statistics on what percentage of these minors were unaccompanied; however with regard to their rights, the delegation stated that a child who entered Belarus received all the rights that of a child citizen, including the right to legal protection and free education.

### ***Child labour***

The Committee asked whether there was a monitoring mechanism for child labour and asked for more information on the conditions and supervision of child workers. The delegation reported that Belarus assisted minors in finding jobs outside of their study time, and assured that this was done in compliance with the CRC. The delegation wondered if there was a subtext to the question with regard to agricultural work done by students, and affirmed that this did not happen any more. The Committee said that as long as there were labour inspections and that work did not violate the child's right to education, then the Committee would be satisfied.

### ***Juvenile justice***

The Committee was under the impression that the implementation of a juvenile justice system was not moving very quickly, because it was still referred to as a project. The delegation

explained that the Ministry of Justice was responsible for its establishment and that the State did not want to move quickly on this. Rather, a juvenile justice system would be implemented in stages because it involved a change in structure; the State wanted to make sure that it had the resources, experience and the input of those with appropriate institutional memory to successfully carry out this change. Juvenile justice also required collaboration with NGOs and the State wanted to ensure that the community was prepared to accept the idea.

The Committee noted that no specialised system of justice had been established and that imprisonment seemed to be at the judges' discretion. The delegation affirmed that there was no specialised court for adolescents, but assured that judges had proper training to address these issues and a child offender would come before a judge with the experience to deal with the situation appropriately.

### ***Military camps***

The Committee noted that armed forces were often used in the prevention and treatment of juvenile offenders, via military camps. The delegation explained that the military camps, or defence/sports camps, provided education and training. The delegation assured that these camps were purely humanitarian and were administrated by the Ministry of Education.

The Committee asked whether Belarus was using restorative justice to handle juvenile cases. The delegation stated that imprisonment was only applied in rare cases and serious offences, such as when the person would be dangerous to society. The Criminal Code stated that adolescents could only be sentenced to up to 10 years imprisonment and that it was impossible for children under the age of 17 years to be detained along with adults in Belarus.

### ***Gomel district***

The Committee noted that the Gomel district had a high number of negative indicators. The delegation said that it was difficult to identify the exact reasons, but the State recognised that more targeted programmes were needed in areas with high numbers of HIV/AIDS infected people. The delegation hoped that the reasons for these negative indicators would be revealed when the number of local executive committees increased.

## **Concluding Remarks**

Mr. Zermatten thanked the delegation for the intensity of their efforts to respond to the questions. He stated that the questions that were raised were in the interest of ensuring that children in Belarus were shown more respect for their rights. Mr. Zermatten said the most delicate pending question concerned having a specific institution in place to establish inter-ministerial coordination on policy and programme planning for children. Mr. Zermatten also believed that an Ombudsperson would better guarantee the rights of children to lodge complaints. With regard to national plans of action, the Committee hoped the "Children of Belarus" Programme would be integrated into sustainable national policies. The Committee also stated that NGOs must be able to be fully active and enjoy a level of independence and security. Mr. Zermatten noted that social, economic and cultural rights were generally well developed, particularly access to education, access to health, and reduction of poverty, so the Committee would focus its recommendations on the issue of violence, child victims, and rehabilitation services. With regards to legislation, the recommendations would ask the State to address children's separation from their parents and with regard to juvenile justice the Committee's recommendation would emphasise the need for further efforts to make real progress. To conclude, Mr. Zermatten stated that Belarus was close to reaching a protectionist

system, but the question of children's participation in that system needed to be prioritised and improved.

Mr. Yakzhik, the head of delegation thanked the Committee for the interactive dialogue, and hoped that this fruitful discussion would continue.