



ngo group for the crc

STATE PARTY EXAMINATION OF BOSNIA AND HERZEGOVINA'S INITIAL REPORT ON THE SALE OF CHILDREN, CHILD

PROSTITUTION AND CHILD PORNOGRAPHY

55TH SESSION OF THE COMMITTEE ON THE RIGHTS OF THE CHILD
13 SEPTEMBER – 1 OCTOBER 2010

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Bosnia and Herzegovina ratified the Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography (OPSC) on 4 September 2002. On 16 September 2010, the Committee on the Rights of the Child (the Committee) examined the initial report of Bosnia and Herzegovina.

Opening Comments

The delegation of Bosnia and Herzegovina was led by Ms Saliha Djuderija, the Vice Minister of Human Rights and Refugees. She was supported by a small delegation consisting of representatives from the Ministry of Human Rights, the Ministry of Security, the Ministry of Justice and the Office of the Prosecutor from the Federation of Bosnia and Herzegovina and Republika Srpska.

Ms Djuderija thanked the Committee, and then summarised the history of the OPSC in Bosnia and Herzegovina. She reiterated that the OPSC was ratified with no reservations and was monitored by the Ministry of Human Rights. She described the preparation process of the State report, which incorporated intelligence from multiple sectors and institutions. She also explained the hierarchy of laws in Bosnia and Herzegovina: the constitutions of the entities, the statue of the Brcko District, and then the laws of the State and other general acts. She offered to provide additional explanations and clarifications to the Committee.

Mr Kotrane, the Country Rapporteur, welcomed the delegation. He commended Bosnia and Herzegovina for implementing the CRC and its Optional Protocols and specifically acknowledged Bosnia and Herzegovina's plan of action against child pornography, sexual exploitation and trafficking. Nevertheless, he stated that there was a recurring issue: the current plan did not cover everything. He highlighted the visible gaps in the legislation and deviations from the principles of the OPSC and noted that it was unclear whether there was legal prosecution for child pornography, forced labour and sale of children. He asked the delegation to clarify Bosnia and Herzegovina's plans and strategies.

General Measures of Implementation

Legislation

The Committee praised Bosnia and Herzegovina for ratifying so many international conventions, but asked whether these conventions had the authority of constitutional law. The Committee asked whether the sale of children was criminalised in the Criminal Code and emphasised that the sale of children was not the same as child trafficking. The delegation stated that in the State's criminal legislation, trafficking and sale of children was under the same law. The delegation also reported that both entities could prosecute cases of pornography. In response to the Committee's question about the offence of forced labour, the delegation acknowledged that forced child labour was not explicitly criminalised, but stated that it was included under the provision on slavery. The delegation stated that its Criminal Code said that whoever buys or sells a person under 18 (for adoption, transportation, exploitation, etc.) would be imprisoned.

The Committee also asked for clarification on how juveniles were protected in legislation. The delegation explained that in Republika Srpska specific legislation for juveniles would take effect in 2011. The delegation said that in the Federation of Bosnia and Herzegovina, similar legislation was in the process of being passed. Furthermore, the delegation said that the aim of this legislation was to ensure that juveniles' cases were heard by officials who had been trained in children's rights issues. The delegation said it hoped this law would be an improvement for child victims.

The Committee was concerned that children's statements were not regarded as real evidence in court. It worried that the difference in the entities' criminal laws would compromise children's rights. The delegation assured that courts admitted children's statements, except in circumstances where it would be inappropriate to do so, such as mental health cases.

Dissemination

The delegation explained how Bosnia and Herzegovina made the OPSC available to the public. The delegation highlighted NGOs' efforts to inform children about the Protocol and it highlighted the Council for Children's work in 2005 to organise educational workshops for children. It reported that the Ministry of Human Rights, with the help of Save the Children Norway, created an educational picture book and teacher guidelines to inform primary school children about violence against children (including sexual violence, abuse, and sale of children). The delegation also announced that the Revised Action Plan, which aimed to remove all deficiencies from the Action Plan for Children (2002–2010), would be launched in September 2010.

Monitoring

The Committee asked who was in charge of monitoring the implementation of the OPSC. It also asked whether this monitoring body had resources to effectively carry out its responsibilities. The delegation explained that the Ministry of Human Rights and Refugees was responsible for monitoring the OPSC. It explained that the Ministry was a state level ministry and its key functions were to implement, promote and report on human rights. It stated that the Ministry coordinated the implementation of the OPSC at the local level and would provide financial support and resources, if necessary.

Data collection

The Committee emphasised that collecting data was important for understanding children's realities. It was concerned that Bosnia and Herzegovina's limited statistical data and analysis made it difficult to have a clear picture of what was happening on the ground. The Delegation explained that in 2008, Bosnia and Herzegovina created software to conduct research and was currently working to make it a national program. When the Committee asked whether Bosnia and Herzegovina planned to carry out another census (the last was conducted in 1991), the Delegation explained that it would like to do a census, but Parliament was responsible for orchestrating it. It said it would take a long time for the census legislation to be passed.

The role of civil society

The Committee asked whether NGOs and civil society were included and supported by the State. The delegation explained that there was a general memorandum of understanding between the government and the non-governmental organisations, but NGOs had their own programs and initiatives. It explained that the government had limited funds that could be allocated to NGOs that request assistance, but it said most NGOs had their own funding.

Prevention

Social services

The Committee asked whether measures were being taken to protect children. It asked about the capacity and accessibility of social services, including centres for violence, abuse and exploitation. It also asked about the State's strategies for raising community awareness about children rights and wanted to know whether a hotline had been established for child victims. The delegation reported that three years ago it started conducting intense activities to protect children from abuse, prostitution, and pornography. It noted that these efforts included increased attention to cyber crime. The delegation also stated that the State had two hotlines for people to report trafficking, pornography, and abuse. In addition, Bosnia and Herzegovina had a website for children and for parents as part of an information campaign against child abuse, pornography and prostitution. The delegation also stated that it was working on guidelines for social workers, police and other officers who directly assist children victims. The delegation reiterated that it was working to change social attitudes in the best interests of child.

Roma communities

The Committee was concerned about the education of the Roma; it wanted to know whether the State had a long-term education strategy. The delegation explained that Bosnia and Herzegovina had a strategy for education and social inclusion that would affect as many Roma families as possible. The delegation reported that 150 Roma families received housing, which ensured that their children could be included in regular education. The delegation acknowledged that previous programmes had positive initial results but then large dropout rates and it explained that the current strategies were targeting long-term attendance. The delegation acknowledged that the strategies were never perfect, but emphasised that this was a good start given the available resources.

The Committee asked about the conditions of tolerance and non-discrimination within schools. It pointed out that discrimination and stereotypes could drive children away from school and wanted to know whether the State was doing anything to address this issue. The delegation said that the State was implementing programmes to integrate the Roma into schools.

Prohibition and Related Matters

Adoption

The Committee was concerned that Bosnia and Herzegovina had not ratified the Hague Convention of Intercountry Adoption. It said that without this, the door was opened for illegal sale of children within the country and internationally. The delegation explained that international adoption was uncommon, there were only 20 cases in the last year and these cases were organised for citizens or people who had family from Bosnia and Herzegovina. The delegation stated that at this point, Bosnia and Herzegovina would not ratify the Hague Convention, but it said it would consider it.

Sex tourism

The Committee asked whether sex tourism was prevalent in Bosnia and Herzegovina and if so, what measures were being taken to combat it. The delegation said there were no reported cases, but it was aware of the risks of sex tourism. The delegation assured that hostels and hotels were asked to take measures to prevent the movement of children and women in these facilities and stated that a person under 18 needed parental consent to travel outside of the country.

Begging

The Committee asked about forced begging. The delegation explained that the State was conducting research to identify the best approach to combat begging. It admitted that its previous strategies had not been effective. It hoped that its new plan, to have day care centres where child beggars could bathe and eat safely, would be more effective. The delegation reported that some of the children were being sent to school through this program. The delegation said it hoped this program would become a state-wide program.

Protection of the Rights of Victims

Birth registration

The Committee asked about birth registration, because unregistered children were at additional risk to violations of OPSC. The Committee pointed out that Roma children were particularly vulnerable to these violations because health institutions often failed to issue their birth registration. The delegation agreed that the Roma were the most vulnerable and acknowledged that Bosnia and Herzegovina needed to work to improve the position of the Roma minority. The delegation also emphasised that the Roma parents' attitudes and the nomadic lifestyle perpetuated the habit of avoiding birth registration. The delegation noted that Bosnia and Herzegovina issued fines when birth registration was deliberately avoided, but nevertheless the problem was unresolved.

Alternative care

The Committee was concerned about the use of alternative care institutions for children, because often these institutions subjected children to sale, prostitution, and pornography. The delegation explained that in 2009, the Council of Ministers appointed a commission for monitoring institutions with child residents. It explained that experts visited a number of institutions and did not find a single recorded case of abuse. The Committee pressed further, and asked whether there had been any cases where police or government officials were investigated, prosecuted, or convicted for OPSC offences. The Delegation said that according

to its data, there had been no major cases in the past few years. It acknowledged that more than ten years ago there was a case where a police officer was prosecuted, but it explained that the situation had changed because now the State had specialised departments of investigation.

Care for victims

The Committee wanted to ensure that victims of child pornography, prostitution or sale received appropriate services. There was some confusion over the legislation's wording, so the Committee wanted the delegation to affirm that it recognises that victims of these crimes were different than neglected children and delinquent children. The delegation explained that under the law, child victims, neglected children and delinquent children all benefited from social services, but they received different services. The delegation expressed its plan to persuade new standards in which these differences would be aligned with OPSC and would be strictly defined in law.

Victim compensation

To answer the Committee's question about compensation for damages to the victim, the delegation reported that the State had provisions for compensation in its criminal code. But it explained that the damages were settled in civil litigations, which meant minors had to file for damages through their families. The delegation recognised that there was disagreement between the Ministry of Human Rights and the courts: the Ministry wanted to make sure the child received compensation, the courts wanted to make sure things were settled quickly.

International Assistance and Cooperation

The delegation explained that the Bosnia and Herzegovina's criminal laws extended outside of the State and could be applied to anyone who committed an offence against the integrity of Bosnia and Herzegovina. The delegation also reported that Bosnia and Herzegovina had entered into agreements with neighbouring countries. It highlighted that the police collaborated with other country's police forces through bilateral agreements, the International Criminal Police Organisation (INTERPOL), and the European Police Office (EUROPOL). These agreements included an exchange of information and joint planning of investigations.

Concluding Remarks

Mr Kotrane commended the will of the State party to proceed with the practical implementation of the OPSC. He appreciated the actions plans and strategies, but emphasised that some of these plans needed strengthening. One of the biggest impediments to progress was the lack of harmonisation of the entities' criminal laws. Furthermore, the Committee recommended further collaboration with UNICEF, ILO and the UNHCR to strengthen the rights of children. He concluded by thanking the delegation for an open and frank dialogue.

The head of delegation thanked the Committee for its questions and suggestions. She said that this dialogue would ensure better protection of the rights of the child. She reiterated the State's dedication to promoting children's rights because she said that when these priorities were set, Bosnia and Herzegovina would look better from the outside.