



ngo group for the crc

**STATE PARTY EXAMINATION OF REPUBLIC OF BULGARIA'S
INITIAL REPORT ON THE OPTIONAL PROTOCOL ON THE
SALE OF CHILDREN, CHILD PROSTITUTION AND
CHILD PORNOGRAPHY**

**46TH SESSION OF THE COMMITTEE ON THE RIGHTS OF THE
CHILD**

17 September - 5 October 2007

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The Republic of Bulgaria ratified the OPSC on the 2nd of November 2001. On the 24th of September 2007 the Committee on the Rights of the Child (the Committee) examined Bulgaria's initial report on the implementation of the OPSC.

Opening Comments

Mrs. Vessela Banova, Deputy Chair of the State Agency for Child Protection, presented the report. She stressed that the ratification of the OPSC had been reflected in national legislation and mentioned specific laws on protection against domestic violence and against trafficking as well as the measures contained in the Child Protection Act. She highlighted the multi-sectoral approach to child victims, which helped ensure the best possible protection, assistance and reintegration for victims and those at risk. She also mentioned participation in conferences run by UNICEF and ECPAT, highlighting the direct impact of the second conference in the development of the national action plan against the sexual abuse of children for profit. She admitted that the state still faced various problems, particularly lack of coordination, but mentioned various efforts to counteract this, including the decision taken in 2005 to integrate the various plans and programmes into an annual plan addressing all areas of the CRC and its Optional Protocols. She noted the value of crisis centres in providing assistance to victims, but acknowledged that there were still problems with the structure and services provided. She highlighted the particular problem with centres where victims of violence and trafficking were housed together. However, she stressed that efforts were being made to address this and in particular to provide training to the staff with international assistance. She mentioned the success of a website on violence against children which raised awareness and provided an opportunity to make complaints. Finally, she emphasised the commitment of the state to

implementing the OPSC and the determination to continue to improve their efforts to protect the children of Bulgaria.

Ms Vuckovic-Sahovic, the country rapporteur, thanked the delegation for their report and the written replies which had provided more up to date information. She commented that the report could have been more self-critical and included information on the gaps and failures of the system as well as noting the need for more disaggregated data. Another problem with the state report was that despite the numerous excerpts from legislation it was unclear that all the provisions and definitions of the OPSC were included. However, she acknowledged the challenges facing Bulgaria, as it went through a transition period and commended them on the substantial efforts made to implement the OPSC. She noted that the state would be reporting to the Committee on the implementation of the CRC in June 2008 and hoped that the recommendations made would help in the preparation of that report. She also stressed that the implementation of the Optional Protocols should be seen as part of the implementation of the CRC, not a completely separate issue. She observed that despite the efforts made by the state there were still problems with poverty, economic disparities, lack of education, and in the Roma population with gender discrimination and corruption. She proceeded to ask for more information on the penalties for attempted sexual exploitation as well as for data on the absolute number of sexual exploitation cases, not only those handled by the police. Finally she noted that the law and agency both refer to child protection rather than child rights and suggested that this might mean certain rights were not covered. She asked the reason for this terminology.

Ms. Herczog, the country co-rapporteur, also praised the efforts made by the State party and particularly the cooperation and involvement of NGOs and experts in implementation strategies. She asked about the evaluation of the various plans and initiatives as well as the identification and special protection measures for groups of children particularly at risk from sexual exploitation. She mentioned the scandal caused by a BBC documentary on the treatment of children in a special-needs home and asked how the state had responded to these problems. She also asked about sex education, awareness raising on risks as well as the training that children receive on how to handle these risks. In addition, she wanted to know more about the training for professionals working with children. She noted that international adoption could be a cover for trafficking and mentioned the particular problem with pregnant women travelling to Greece to sell their babies when they were born. She asked about legislation against this and professional support available to these women as well as more general mechanisms for monitoring international adoptions.

Definitions and Legislation

The Committee asked for clarification of the terms minor and juvenile in the State party report. The delegation explained that minor was used for anyone under 14 and juvenile for those between 14 and 18. The Committee also enquired about the terminology of child protection, rather than child rights. The delegation replied that there were political reasons for the decision at the time of the debate on the child protection law. However, they stressed that, irrespective of the terminology, the mentality of the government was rights-based. The term child protection was felt to encompass not exclude the implementation of child rights.

The Committee commended recent amendments criminalising child pornography, but observed that it was still unclear that cartoon pornography was covered. They also noted that there did not seem to be an adequate definition of child prostitution. The report mentioned the use of force to obtain sexual favours, but not remuneration. The delegation replied that if the definitions in domestic law did not cover everything in the definitions in the OPSC, the latter could be directly invoked. The Committee pointed out that it was essential to have criminalisation and especially definitions in domestic law in order to prosecute. The delegation said they would relay the Committee's concerns to the relevant authorities.

The Committee asked for clarification on the meaning of 'offences committed against a person under 16' in the context of the laws on pornography. It also asked about mechanisms to protect children from pornography on the internet. The delegation explained that the offence was showing

pornography of any sort to an under 16. In reply to further questions they confirmed that the creation, possession and dissemination of child pornography were criminalised in a different measure. It did not provide information on particular measures to protect children from pornography on the internet.

The Committee requested clarification on the current penalties for sexual crimes, observing that the information in the written answers was contradictory and unclear. The delegation explained that reforms reducing the sentences for these crimes had been passed, but were withdrawn due to popular objections.

The Committee noted that trafficking for the purpose of selling organs was prohibited, but not the sale of organs itself. The delegation admitted that there was no explicit prohibition on the sale of organs but thought this was adequately covered under the general provisions on trafficking.

The Committee asked about the number of cases prosecuted for the various offences covered by the OPSC and its use in courts. The delegation explained that the OPSC could be directly invoked in courts with priority over domestic legislation if there was a conflict. It provided statistics on the cases brought for various offences, but was unable to give specific examples or numbers for the citation of the OPSC. The Committee also enquired about extradition agreements. The delegation replied that the state could ask for extradition for crimes carrying a penalty of more than one year in prison.

Criminal Procedures

The Committee reminded the State party of the need to distinguish between child victims and perpetrators, mentioning that there seemed to be some confusion between the two. They commended the efforts made to protect child victims and witnesses in the legislation and asked about the practical implementation. The delegation explained that a child under the age of 14 was always examined in the presence of a pedagogue or psychiatrist, and that this was also done for a child between 14 and 18 if it was deemed necessary, and that these hearings were carried out in a friendly environment. The Committee asked whether these measures applied to trafficked children or witnesses of trafficking as well. The delegation replied that these were general measures and there were additional provisions for the protection of victims of trafficking. The delegation did not answer a request for clarification about the protection only of children who collaborated in investigations.

The Committee asked about the existence and structure of dedicated juvenile courts and about the training, particularly on gender awareness, provided to judges and police officers involved in the investigation and questioning of children. The delegation replied that there were no specific courts for dealing with cases involving children. It explained that juvenile justice and child-friendly procedures were part of the regular curriculum and that serving judges and magistrates as well as court psychiatrists received continuous training, including seminars run by NGOs on how to listen to children, on dealing with cases involving children. The results were hopefully a mechanism for listening to children and appropriate spaces for doing so within the framework of the courts. The general training included a module on violence, sexual exploitation and trafficking as well as police manuals on best practice for investigations involving children and on sexual exploitation cases.

The Committee asked about mechanisms for assessing the credibility of a child's testimony. The delegation replied that the need to give true testimony was explained to the child and the pedagogue or psychiatrist present at the interview helped to assess the reliability of the statements. The Committee also enquired whether children were regularly informed of the progress and outcome of the trial. The delegation replied that the court had an obligation to provide information to the child on all decisions.

The Committee asked about compensation for child victims. The delegation replied that a new law on compensation had been introduced for 2007, which included compensation for victims of trafficking and some sexual crimes. The compensation could be either financial or practical assistance, such as medical or psychological assistance. This scheme was run and financed by the

ministry of justice. The Committee asked about special procedures for children in this system and whether the provision of compensation depended on conviction. It also asked about the possibility of restorative justice and provision of compensation by the perpetrator. The delegation replied that there was no special system for children, but that the law did allow relatives to assist in the filing of a request. It stressed that this was a new system and that amendments might need to be made to improve the operation. Victims could apply for compensation if the court returned a guilty verdict, the court proceedings were discontinued or dismissed because the perpetrators could not be identified.

Highly Vulnerable Children

The Committee noted that children from minorities were often most vulnerable to sexual exploitation. It asked about preventative measures aimed at these children and initiatives to aid their integration as well as methods of identifying ethnic minorities. The delegation pointed out the difficulty caused by the lack of an agreed definition of ethnic minorities. It explained that the identification was done by self-identification. The Committee highlighted various problems with self-identification, particularly if there were substantial advantages or disadvantages to that identification. It also asked about the decision in the case of children who were unable to self-identify. The delegation responded that in that case the wish of the parents was respected.

The Committee reminded the delegation that the key point was not ethnicity but the identification of children at risk. They asked what identification and protection mechanisms were in place more generally for children at risk. The delegation highlighted their awareness of marginalisation, especially due to poverty as the major risk factor. It mentioned practical programmes, including a ten-year plan which provided assistance in social integration and education, and plans on health education and awareness raising. The delegation stressed that professionals working with these children received special training.

The Committee noted that children in institutions were often particularly at risk. It expressed concern over the large number, including healthy children, in institutions and mentioned the scandal caused by a BBC documentary. The delegation stressed that the state was making efforts to decrease the number of children in institutions. They highlighted the exceptional nature of the situation in the institution mentioned by the BBC. The delegation pointed out that two independent evaluations of all the institutions in the country were carried out, making recommendations on improvements or closure of centres. The centre mentioned by the BBC was to be closed, but difficulties in providing other places for the children and resistance from the municipal authorities had slowed down the implementation of the decision. As a direct result of these problems, new measures were being introduced to reduce the control of municipal authorities and bring in a licence system for centres. The delegation did not provide any further information on the prevention of sexual exploitation in institutions.

The delegation denied that children were housed in centres with older women. The only cases where children and adults were together were in centres for trafficked mothers and their babies. It also stressed that, although municipalities operated the centres, the state provided funding. The Committee pointed out that ECPAT reported the presence of older women in children's centres.

Data Collection

The Committee noted various problems with the data provided, particularly the lack of disaggregated data and the differences between definitions in the national legislation and the OPSC. It asked about problems with disaggregating data and the body responsible for collecting and coordinating data. The delegation explained that the national statistical institute collected and aggregated data. The data protection legislation forbade the publication of data disaggregated according to ethnic origin, political or religious beliefs, such information should only be available for internal use in organisations dealing with the individual. The Committee agreed that personal data should be protected, but suggested that information such as the number of Roma children in

institutions need not be withheld. The delegation also mentioned the collection of data by the SACP to assess the need for national programmes and policies. The police also collected data on children identified as at risk.

Training and Dissemination

The delegation did not provide information on the dissemination of the OPSC in the media and the tourism industry. The Committee asked about the training and awareness raising for children on the risks of sexual exploitation. The delegation replied that this was covered in a variety of ways in different parts of the curriculum. The police ran sessions in schools, including on issues such as child rights and safety. There was also a space on the SACP website for children to ask questions on sexual matters or risks and receive answers from a team of psychologists. It stressed that training was provided to all teachers and professionals with the assistance of UNICEF and NGOs.

The Committee asked about long term strategies for the implementation of the OPSC. They noted that many strategies had ended in 2005 and asked about their success, continuation or replacement. The delegation explained that the long term plan for 2007-2017 integrated all children's rights issues rather than having individual plans for each issue.

The Committee asked why the Helpline was only a pilot project. They replied that this was a new and complex project. It stressed that the state had guaranteed funding for three years.

Trafficking

The Committee asked about measures to prevent the abuse of easy travel within the EU by traffickers. The delegation admitted that this could be a problem, but stressed that any system was open to abuse. It explained that a child travelling alone or with one parent had to have written authorisation from the parent(s) who were not accompanying the child. These declarations had to be verified and the state could refuse permission to travel even with all the correct documentation if the child was thought to be at risk from trafficking. So far there had been 124 such decisions. The Committee asked about the legal consequences of travelling without declarations from the parents. The delegation replied that the child would simply not be allowed to leave the country. They could vouch for the enforcement of this regulation from their own experience. If the child was removed illegally this would be tried as abduction. The same rules applied to nationals living abroad but the declarations were processed through the consulate. The Committee asked at what age a child could travel without parental permission. The delegation replied that no one under the age of 18 could travel without parental permission. It commented that it was harder to address the problem of non-Bulgarian children trafficked through Bulgaria since the regulations did not apply to them. The Committee asked about bilateral agreements to address this problem. The delegation replied that they collaborated with neighbouring countries, but there were no legal provisions for stopping a foreign child from travelling, if the child had documentation. The authorities tried to check up on the social situation of unaccompanied children.

The Committee asked about the repatriation and services provided to trafficked children. The delegation stated that they cooperated closely through official and unofficial channels with neighbouring countries and did not repatriate children without proof that the child would be cared for and the authorities asked for follow up. It highlighted the problem that parents were often involved in trafficking.

The Committee asked about women becoming pregnant and selling their babies abroad. The delegation replied that the main factors encouraging women to sell their children were poverty and lack of education and work opportunities. The state had therefore provided health education and birth control measures to the women as well as training for jobs. These measures meant that the women were not forced into selling the children either by need or by organised groups. Committee asked what had happened to the babies and whether the women had been tried and punished. The delegation did not answer.

The Committee asked about measures taken against organised crime. The delegation replied that they cooperated with the police forces in the destination countries to dismantle the whole organisation. It pointed out that they had bilateral agreements with 42 countries and police liaison officers in more than 15 European countries. The delegation mentioned the success of the collaboration with Greece to dismantle an organisation which had sold more than 14 babies in 2006. Nine members of the organisation had been tried. The state was not aware of any further activity by that organisation.

Concluding Remarks

Ms Vuckovic-Sahovic thanked the delegation and apologised for the bombardment of questions. She stressed that the Committee had learnt a lot from the delegation and hoped that it had also been a learning experience for them. She commented that the Committee would have liked more discussion of the practical implementation of the laws, but acknowledged there was not time to cover everything in one meeting. She promised that the Committee's concluding observations would address various issues they felt still needed improvement, including data collection, prevention measures and the protection of victims.

Mrs. Vessela Banova thanked the Committee and assured them that the delegation welcomed their interest. She highlighted the excellent timing of the meeting and stressed that the state would make the most of the opportunity to include the Committee's recommendations in the new national strategy for children.