



child rights connect
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STATE PARTY EXAMINATION OF HUNGARY'S THIRD TO FIFTH PERIODIC REPORT

67TH SESSION OF THE COMMITTEE ON THE RIGHTS OF THE CHILD

1 SEPTEMBER – 19 SEPTEMBER 2014

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Hungary ratified the Convention on the Rights of the Child (CRC) on 7 October 1991. On 9 and 10 September 2014, the Committee on the Rights of the Child (the Committee) examined the third to fifth report of Hungary. It was last examined on 18 January 2006.

Opening Comments

The delegation of Hungary was led by H.E. Ms. Tünde Fűrész, Deputy State Secretary from the Ministry of Human Capacities. She was supported by representatives from the Ministry of Human Capacities, the Permanent Mission of Hungary to the United Nations in Geneva, the Ministry of Justice, the Ministry of Defence, the Ministry of Interior, the Ministry of Foreign Affairs and Trade, regional and district Courts, the office of the Prosecutor General and the General Directorate of Social Affairs and Child Protection.

Ms. Tünde Fűrész emphasised that there had been significant legislative reforms since 2006, such as a new Criminal Code and Civil Code. The Child Protection Act of 1997 had also been amended. She further underlined the recognition of the legal status of foster parents.

Ms. Tünde Fűrész pointed out that the State party aimed to reduce the amount of people living in poverty and also sought to better the living conditions of the Roma children. In this regard, she mentioned the European Roma Strategy of 2011.

Note: This report is prepared at the discretion of Child Rights Connect. The content is designed to give a summary of the key discussions during the session of the Committee on the Rights of the Child but it is neither an official nor fully comprehensive report. More reports and further information can be found at www.childrightsconnect.org/index.php/publications-resources/crc#countrysum

Ms. Tünde Fürész spoke of the use of alternative sanctions in order to prevent the criminalisation of minors in conflict with the law. Mediation and voluntary restitution were being encouraged.

Mr. Gehad Madi, Ms. Maria Rita Parsi, Ms. Yasmeen Shariff, Ms. Kirsten Sandberg and Ms. Renate Winter, the members of the Committee task force for Hungary, welcomed the multidisciplinary delegation and the new legislation. They further commended the ratification of the two Optional Protocols.

General Measures of Implementation

Legislation

The Committee asked about the legal status of the CRC in the domestic legislation of the State party. It also recommended the ratification of the third Optional Protocol on a Communications Procedure. The delegation explained that the State party was dualist and that the CRC had been transposed and was at the top of the legal hierarchy. It added that the Constitutional Court was responsible in ensuring the harmonisation and the annulment of any contradictory law. The delegation also said that lawyers as well as public administration authorities used articles of the CRC within guardianship proceedings.

Coordination and monitoring

The Committee noted that the National Strategy “Making Things Better for our Children” (2007-2032) focused on the eradication of poverty and was not a comprehensive plan dealing with the entirety of children's rights. The delegation responded that the strategy was focusing on access to quality education and children living in the 23 most disadvantaged regions.

The Committee underlined the absence of a single coordination body. It asked if there were appropriate resources for coordination. The delegation responded that the rights of the child were a horizontal issue and that the State Secretariat was in charge of coordination. It explained that a human rights task force was established, which was an inter-ministerial organisation with different subcommittees; one of these was focusing on the rights of the child. The delegation acknowledged that coordination needed to be reinforced.

The Committee enquired about the independence of the Commissioner for Fundamental Rights and about the number of complaints received and how they were dealt with. It also asked about the intention of having an Ombudsman for children and pointed out that the Commissioner had not been heard by the Parliament since 2009. The delegation answered that the Office of the Commissioner for Fundamental Rights had been reformed in 2012. The Commissioner had been elected by a two thirds majority and had to report to the Parliament. The delegation further explained that since 2008 the Commissioner had a website that allowed children to report cases. It added that a budget had been earmarked for the Commissioner and that it was being accredited status A from the International Coordinating Committee of National Institutions for the Promotion and Protection of Human Rights.

Dissemination and training

The Committee noted that, according to the Eurobarometer survey, children in the State party were the least aware about their rights in Europe. It asked about the training given to professionals and the incorporation of the CRC in the school curricula. The delegation explained that, in 2013, a child friendly task force was created to provide information on the CRC and thus the survey could not reflect the recent progress. It added that the national curriculum did have a part on child rights and the opportunity was given to schools to contact the Commissioner for Fundamental Rights to receive training. The delegation further spoke of

the support given to teachers through trainings and new programmes which would soon be accredited.

Data collection

The Committee raised concerns about the lack of disaggregated data on children from the most vulnerable backgrounds and Roma ethnic group. The delegation explained that the State party collected data on Roma students on a voluntary basis and did not use the ethnic background as an indicator.

Budget

The Committee took note of the reduction of the budget for local governments and enquired about the funds that had been earmarked for children. The delegation answered that the government had made tremendous efforts to fight social exclusion and that more than 4 million Hungarians were in employment.

Cooperation with civil society

The Committee highlighted information received that indicated that the State party penalised NGOs that received foreign funds. The delegation did not respond to this question.

General Principles

Non – discrimination

The Committee raised concerns about the subsisting substantial discrimination against minorities and migrants. It took note of the “Meeting Point Programme” that reached 3,760 students and asked if it would be extended to other schools. The Committee further enquired about general awareness raising in the population and the inclusion of Roma children in education. It also emphasised the rising Anti-Semitism and the continued discrimination based on gender which affected career choices. The delegation responded that there was a subject on moral studies in the national curriculum which enabled to educate children in the 1st and 5th grades on tolerance.

The Committee asked about discrimination against LGBTI children. The delegation explained that the national curriculum between the 5th and 12th grades also included information campaigns on social exclusion and the need to know about diversity which included different sexual orientations.

Best interests of the child

The Committee underlined that the legislation of the State party did not take into account the best interest of the child during custody and detention. The delegation did not respond to this question.

Respect for the views of the child

The Committee noted that children above 14 were heard in cases concerning guardianship but underscored that those under 14 were only exceptionally heard. It further emphasised that children were not heard in schools and asked if their views were respected in child protection cases. The delegation answered that parents and student associations had the right to give their opinion about life in schools.

Civil Rights and Freedoms

Corporal punishment

The Committee pointed out that corporal punishment had been banned but that this had not been promoted in practice. It asked if there had been training on alternative measures of

punishment and underlined that school guards were allowed to use force. The Committee further highlighted that some judges did not consider cases of corporal punishment as a crime due to the fact that the prohibition was in the Child Protection Act and not in the Criminal Code. The delegation responded that, since 2013 teachers were prosecuted if they resorted to violence.

Child abuse

The Committee raised concerns about the failings of the child protection system, as it had been illustrated by a case of child abuse in Szigetszentmiklós. It asked if more efforts had been made to train professionals and increase resources. The delegation answered that the child protection services had to collect signals from all stakeholders to transmit them to the guardianship authorities under a new uniform standardised method that became effective in 2014. There had been 21,000 cases which required intervention. It also said that 948 cases were taken to court in 2013 by the guardianship authorities. The delegation explained that in the case of Szigetszentmiklós, the court proceedings were still ongoing and the children had been enrolled in rehabilitation programmes.

The Committee asked if domestic violence was considered to be a private matter. The delegation assured that child abuse and domestic violence were not considered to be private matters.

Freedom of thought, conscience and religion

The Committee noted that the new curriculum made it compulsory to attend religious education. The delegation responded that religious education was not obligatory and children could choose moral education.

Freedom of association and peaceful assembly

The Committee highlighted that children under 14 were unable to hold decision making positions in their own associations. The delegation explained that the Civil Code gave children the right to become members of associations but not take a leading role. Under 18s could not make legal statements on their own behalf and thus could not commit themselves to financial issues.

Right to an identity

The Committee asked about baby boxes and reminded the State party that they contravened Articles 6, 7, 8, 9 and 19 of the CRC. The delegation answered that baby boxes were a unique instrument and were only a last resort. It added that pregnant mothers received numerous services and that parents had 6 weeks to recuperate their infant following his birth. DNA tests could be used to confirm the parenthood. The delegation further specified that adoptive parents would be taking the role of the biological parents for abandoned children.

Family Environment and Alternative Care

Family support

The Committee asked about mothers in detention and if alternatives to detention existed. It enquired about the support that the children of incarcerated parents would receive. The delegation said that incarcerated mothers could previously keep their children for 6 months but now it was one year. It added that new initiatives were launched to enable children to remain in contact with their detained parents, such as transmission of drawings and voice recordings.

Institutions and family-based care

The Committee welcomed the strengthening of foster care and the training scheme for parents. It asked about safeguards as well as complaint mechanisms to prevent abuse. The Committee

noted that foster care was provided until the age of 12 and enquired about the possibilities for older children. The delegation explained that foster parents were employed and received a salary with social insurance. It also said that foster parents received training as it was now a recognised profession.

Adoption

The Committee asked about the adoption of Roma children. The delegation responded that there was no data on the ethnic origin of children; therefore, adopted Roma children could not be identified.

Basic Health and Welfare

Health services

The Committee underlined that teenage pregnancies were on the rise and abortion was used as a contraceptive. It asked for more information on reproductive health education. The delegation answered that a diverse support system for teenage pregnancies existed such as a one off birth benefit, family benefits and targeted benefits. It specified that district nurses were tasked with providing support to mothers and families and could refer mothers to other services, if needed. There were interim homes for crisis pregnancies and there were NGOs which focused on pregnant women in a crisis situation. The delegation further emphasised that sexual education was part of the school curriculum.

The Committee highlighted regional disparities of healthcare and asked about the measures that had been taken to harmonise these provisions. The delegation responded that the State party encouraged doctors at the end of their studies to work in disadvantaged areas. Furthermore, their work environment had been improved.

The Committee took note of the rate of suicide and enquired about care given to children with mental disorders. It said that there seemed to be insufficient mental health professionals and a lack of rehabilitation programmes. The delegation acknowledged that the number of suicides had increased because of online harassment. It added that the Criminal Code criminalised the encouragement or facilitation of suicide. Psychologists were presents in schools and 26 psychologists and 12 psychiatrists were dealing with 483 children in specialised homes.

The Committee spoke of the growing trend of births at home and asked how they were being monitored. The delegation explained that there were 100 home births annually and added that there was good collaboration among the different stakeholders.

Breastfeeding

The Committee emphasised that breastfeeding rates were very low (46 per cent after 6 months) and that this was linked to the provision of free infant formula. The delegation answered that the notice on formula mentioned that breastfeeding was preferable and nurses also encouraged it. Furthermore, the advertising of infant formula was prohibited in hospitals and mothers had the opportunity to breastfeed during working hours.

Children with disabilities

The Committee inquired about the identification of special needs children and under which circumstances could a child be excluded from schools. The delegation explained that there was a programme to standardise diagnostic tools with a registry and a follow-up system. It added that the diagnosis started at the age of 18 months and was done by experts such as paediatricians and psychiatrists. The delegation further said that if the Committee of experts decided to refer children to a specialised school it had to be for cases of medium to serious disabilities.

The Committee asked about what was being done to favour home care of children with disabilities and reduce their institutionalisation as well as enable deinstitutionalisation. It underscored that children with severe mental disabilities seemed to be particularly left apart. The delegation answered that the strategic goal was to have children with disabilities living in their families. There were 140,000 children either with a disability or critical illnesses. It added that there were support services specifically for children with disabilities which provided transportation and counselling. The delegation further said that in order to return children with disabilities to their families support was given such as home visits by nurses.

The Committee spoke of the misuse of psychotropic drugs in institutional settings. The delegation stated that there was no abuse of such drugs. It added that therapy was provided and drugs could only be prescribed by psychiatrists.

Drug and substance abuse

The Committee took note of the campaigns to fight drug abuse but was concerned that the police gave trainings in schools. It asked if the aim was to prevent or to punish and if children with addiction were considered victims or criminals. The delegation said that 516,000 Euros had been allocated for drug abuse specific programmes. It also explained that 290 policeman had participated in programmes focused on prevention with information being provided to parents.

Education, Leisure and Cultural Activities

Pre-school education

The Committee asked if kindergartens had sufficient human resources. The delegation stated that kindergarten attendance would be made compulsory from the age of 3 and that 90 per cent of children between 3 and 6 were already enrolled. It further explained that demographic figures in the State party were decreasing and thus the number of teachers was sufficient.

Education

The Committee asked why the age for compulsory school attendance had been reduced from 18 to 16 years old. It also asked about the shortening of the vocational training curriculum. The delegation acknowledged the reform of the vocational training but said that this was to better respond to the needs of the labour market and that the quality would not be affected.

The Committee noted that one third of Roma children were in special education and raised concerns about the practice of having segregated schools. It underscored that the European Court of Human Rights had condemned the State party for misdiagnosing the special needs of Roma children. The delegation stated that segregation was legally banned in the State party and no child could be segregated unlawfully. It pointed out that 29 per cent of children at the primary level were from disadvantaged backgrounds. The delegation underlined that the State party looked at the socio-economic background of the family and not its ethnic one. It said that 54 per cent of children received catering in school and there was the “Útravaló Scholarship Programme” which focused on supporting children at every level of schooling.

The Committee asked about the access to school and the stigmatisation of lower performing children. The delegation explained that there had been an impact assessment which had led to the modification of school districts. The State party had launched an equal opportunities plan which measured the success rate of schools and required the use of action plans in cases of underperformance. The delegation further said that 198 school districts had launched such action plans and that the Commissioner for Fundamental Rights received around 600 direct complaints from children annually.

Children with disabilities

The Committee enquired about inclusive education and the training for teachers on children with disabilities. It was worried that children with disabilities suffered from discrimination. The delegation said that there were travelling specialists to enable integrated education and that 67 per cent of the children were educated in an integrated manner.

Leisure and cultural activities

The Committee asked if there were leisure activities for children with disabilities which did not separate them from other children. The delegation answered that within the school system sport activities involved all children.

Special Protection Measures

Juvenile justice

The Committee asked about child friendly proceedings. The delegation described the achievements of the Working Group for Child-friendly Justice which aimed to make judicial processes more child friendly. A website had been established and 300 judges had visited schools to provide lessons on the judicial system. The delegation added that these sessions included an interactive dialogue on child rights. It further highlighted that 2012 was the year of child friendly public administration with several programmes raising awareness among children.

The Committee raised concern about the lack of an independent complaint mechanism for children in detention. The delegation explained that children could report a complaint to the director of the detention centre or transmit it to NGOs, if they did not want to address the director. Their relatives could also lodge a complaint and only the prosecutors had access to complaint boxes.

The Committee raised concerns about the lowering of the age of criminal responsibility to the age of 12 for serious crimes and the possibility to detain minors for petty offences. It further asked about the alternatives to detention and the possibility to be imprisoned for defaulting on a fine. The delegation responded that the number of violent crimes had increased recently, which justified the lowering of the age of criminal responsibility for exceptional cases. It added that pre-trial detention was only for exceptional cases and could be for maximum one year. The delegation said that fines could not be imposed if the child did not have an income and that mediation could also be used instead of detention in case of a default of payment. It further specified that only 4 per cent of misdemeanour cases under the Offences Act of 2012 led to detentions.

The Committee inquired about the background of legal representatives and how access to the children was ensured. The delegation assured that there were no restrictions in the access to the legal representatives and added that it was their legal obligation to maintain the contact with the institution and the parents. It further said that the child legal representative took on the role of life advisor and there was a limit of 30 children per guardian. The delegation acknowledged that there was an increasing need for legal representatives and said that the new system would be monitored.

Concluding Remarks

Mr. Gehad Madi, Ms. Maria Rita Parsi, Ms. Yasmeen Shariff, Ms. Kirsten Sandberg and Ms. Renate Winter, the members of the task force, welcomed the interactive dialogue and pointed out that the main goal of the Committee was to facilitate the implementation of the CRC.

The delegation said that one of the first steps would be to publish the Concluding Observations following their release. It thanked the Committee for the direct dialogue and reaffirmed its continued cooperation.