



Convention on the Rights of the Child

Distr.: General
15 November 2011
English
Original: French

Committee on the Rights of the Child Fifty-sixth session

Summary record of the 1602nd meeting

Held at the Palais Wilson, Geneva, on Friday, 28 January 2011, at 10 a.m.

Chairperson: Ms. Lee

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The meeting was called to order at 10.05 a.m.

Consideration of reports of States parties (continued)

Third and fourth periodic reports of Ukraine on the implementation of the Convention on the Rights of the Child (CRC/C/UKR/3-4; CRC/C/UKR/Q/3-4 and Add.1)

Initial report of Ukraine on the implementation of the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict (CRC/C/OPAC/UKR/1; CRC/C/OPAC/UKR/Q/1 and Add.1)

1. *At the invitation of the Chairperson, the delegation of Ukraine took places at the Committee table.*

2. **Mr. Safiullin** (Ukraine) said that, since the consideration of its previous report, Ukraine had implemented several of the Committee's recommendations: it had incorporated the main provisions of the Convention to its domestic legal system, established a department on adoptions and children's rights and reformed the system of legal guardianship for children.

3. One of the main objectives of the current reform of State institutions was to build on the positive trends in the area of the protection of children's rights. The Parliamentary Commissioner for Human Rights, who monitored the observance of the human and citizens' rights and freedoms embodied in the Constitution, attached great importance to the rights of the child. The Office of the Commissioner included a children's rights unit and a gender equality unit, each of which was assigned a staff member who specialized in handling complaints submitted by children and defending children's interests. A special adviser on children's rights was attached to the Office and the post of deputy commissioner had been created, with responsibility for issues relating to the protection of children's rights, equality and non-discrimination.

4. In December 2010, on the occasion of the twentieth anniversary of the ratification of the Convention by Ukraine, the Commissioner on Human Rights had submitted to Parliament a special report on the situation relating to the observance and protection of children's rights in Ukraine. Over the course of the period under consideration, eight thematic reports had also been prepared, notably on protecting the rights of children with special needs, children living in rural areas, abandoned children, children lacking parental care, orphans and children living in poverty.

5. In giving effect to another earlier recommendation of the Committee, Ukraine had adopted the Act on the National Plan of Action for the Implementation of the Convention on the Rights of the Child up to 2016. Regrettably, it had not been possible, given the difficult macroeconomic situation, to allocate in 2010 more than 2 per cent of the funds required for carrying out the Plan. In 2011, however, its budget would be quintupled. In addition, Ukraine had instituted a system to collect data on persons under 18 that covered various factors that were relevant to the Convention. A statistical report on the protection of children needing special social assistance was published every year, and one on children, women and the family in Ukraine was published every two years. The year 2010 had seen the long-awaited establishment of a consolidated electronic data-processing system covering orphans, children deprived of parental care and children and families living in difficult conditions. The system provided the information required for social action to assist such groups, both within the home and elsewhere.

6. Considerable progress had been made in a variety of areas. For example, infant mortality and the mortality of children under the age of 17 had dropped, owing to the introduction, with the help of the World Health Organization (WHO) and the United

Nations Children's Fund (UNICEF), of modern medical techniques and integrated strategies for controlling childhood diseases. Between 2002 and 2009, the newborn and under-one morbidity rate had decreased from 40 to 20 per cent, while the under-17 morbidity rate had remained high. Although the percentage of children with disabilities remained high (2 per cent of all children in 2009), a consolidated and integrated system to provide disabled children of all ages with medical and social rehabilitation had been set up. HIV/AIDS continued to be widespread in Ukraine and the number of HIV-positive women was rising, but, thanks to a prevention programme, the risk of mother-to-child transmission had decreased by 19 per cent between 2005 and 2010. A strategic action plan for the period 2009–2013 had been adopted, with the aim of preventing HIV/AIDS among children and young people in groups at risk.

7. Ukraine had taken steps to develop its preschool system, with the result that the percentage of children between the ages of 3 and 6 enrolled in the various preschool facilities had risen from 43 to 61 per cent between 2001 and 2009. It had also taken steps to revise school curricula. An ever-increasing number of schools were entering the information age, as shown by the fact that 87 per cent of general educational establishments had been equipped with computers (97 per cent in urban areas and 80 per cent in rural areas). An inclusion programme for children with disabilities had been set up to guarantee their access to education.

8. As of 1 January 2010, 1.2 per cent of children in Ukraine were orphans or lacked parental care. Local authorities and non-governmental organizations (NGOs) were working together to help such children. A lump-sum benefit was paid on the birth of each child, with progressively increasing amounts for a second or third child. The benefit for each additional child thereafter was adjusted on the basis of fluctuations in the subsistence income. The monthly social allowance paid for each child placed under the guardianship or protection of a family-type children's home or a foster family had been increased to approximately €150. Since 1 January 2009, a lump-sum benefit of €2,200 was paid to individuals who adopted an orphaned child. In addition, benefits were paid to single mothers and needy families. In 2011, low-income families had received social transfers totalling 2.3 per cent of gross domestic product or 8.8 per cent of the State budget. Currently, 73 per cent of orphans lived in a family-type setting (under the guardianship of close relatives, in a foster family or in a family-type children's home) thanks to State-provided funds, the amount of which had increased sevenfold since 2005.

9. Between 2006 and 2010, the number of Ukrainian children adopted by Ukrainians had increased by 67 per cent, while that of Ukrainian children adopted by foreigners had fallen by 34 per cent. The national programme for the care of homeless or abandoned children had made it possible to reduce the number of cases by half. Such children lived in centres where they were provided with educational and medical services. The justice services monitored parents who failed to meet their parental obligations.

10. The Criminal Code, the Code of Criminal Procedure, the Code of Administrative Offences, the Child Welfare Act and the Morality and Child Pornography Act, among others, had been amended in order to harmonize them with the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography, with the aim of providing children with better protection. Ukraine attached great importance to prevention and a telephone hotline had been in operation to that end since 2006.

11. The Family Code provided that children's views must be heard, particularly when a court had to rule on a matter concerning them, such as custody, guardianship or adoption. The number of children's school councils was increasing and the activities of children's associations were expanding.

12. Ukraine had ratified the Optional Protocol on the involvement of children in armed conflict in 2004 and had incorporated its provisions into domestic law. It was unlawful to conscript a person under the age of 18, but such persons could enrol in a military academy with the consent of their parents. Ukraine had two military academies at secondary-school level and 17 secondary schools where students could receive military training without thereby taking on military status. Members of Ukrainian contingents assigned to peacekeeping operations overseas were given instruction in the provisions of the Optional Protocol, in conformity with a decree issued by the Ministry of Defence in 2006. Article 30 of the Child Welfare Act prohibited the advocacy of war or violence, the participation of children in armed conflicts and the establishment of child soldier organizations. Between 2006 and 2010, no individual below the age of 18 had been recruited to participate in a conflict. Under articles 260 and 447 of the Criminal Code, the recruitment, financing and training of mercenaries were prohibited. The provisions of the Optional Protocol were disseminated at the regional and national levels.

13. Refugees, including children, received protection, in close cooperation with the Danish Refugee Council. Ukraine also worked in cooperation with, among others, the International Organization for Migration (IOM), the International Labour Organization (ILO), UNICEF and the International HIV/AIDS Alliance.

14. **Mr. Pūras** (Country Rapporteur) asked which permanent institution coordinated the implementation of the Convention, given that the inter-agency commission on child welfare did not seem able to perform that role. Noting that the administrative reform of December 2010 risked compromising the viability of the existing child welfare system, he enquired about the hierarchical relationship between the central and local child welfare authorities and services and the impact of the recent decentralization on their quality and financing. He wished to know to what extent the National Plan of Action had been implemented and what budget had been allocated to it for 2011.

15. He expressed his concern at the rise both in racist and xenophobic behaviour — particularly on the part of radical youth groups — and in racist crime and asked what measures the State party planned to take to combat what amounted to discrimination towards vulnerable children. He requested specific information on intolerance towards vulnerable groups and on efforts to educate children in tolerance.

16. He requested detailed information on the State party's reaction to incidents of police violence towards minors, which, in certain cases (in Vinnytsya and Rivne), had driven the minors in question to suicide. He asked how the authorities had dealt with those cases, what lessons had been learned in order to avoid such incidents in the future and what training was given to the police with a view to preventing any act of torture or degrading treatment of children. He requested clarification of the general situation relating to the use of corporal punishment, which was prohibited by law but was often practised, particularly in the home.

17. **Ms. Maurás Pérez** requested information on investments made in the children's sector, on the degree of State oversight of child welfare sector spending and on the 2010–2015 poverty-reduction programme. Noting that Ukraine was among the most corrupt countries in the world, she asked what was being done to combat corruption in the social sectors. It would also be useful to know why the National Institute of Statistics had still not established a national system for compiling disaggregated and transparent data on the children's sector.

18. **Mr. Koompraphant** asked what type of oversight the relevant authorities exercised over child welfare services and institutions such as day-care centres and orphanages, what body took appropriate action if an institution was not functioning properly and whether the State party planned to enact legislation on child abuse.

19. **Mr. Pollar** asked how Ukraine planned to reduce the infant and under-five mortality rates and the number of child deaths due to external causes, such as domestic or other accidents.

20. He wished to know what laws guaranteed children freedom of expression and what remedies were available to them to assert that freedom in the event that it was violated.

21. **Mr. Guráň** requested additional information on the composition, structure and resources of the children's rights unit within the Office of the Parliamentary Commissioner for Human Rights. He asked whether the unit operated in accordance with the Paris Principles and whether children had been consulted prior to its establishment.

22. **Mr. Krappmann** said that children's views seemed to carry little weight in Ukrainian society, even though the Child Welfare Act provided for their right to be heard. He asked whether schools and local communities, for example, had taken any action to enable children — particularly marginalized children — to be heard and also whether any programmes had been set up to raise parents' awareness of their responsibilities and of children's rights.

23. **Ms. Aidoo** asked whether the State party involved local and national associations in the formulation and implementation of policies promoting the interests of children. According to the report under consideration, parents had one month to register the birth of their child, failing which they could be required to pay a fine of up to three times the minimum wage. She asked whether the punitive approach was an effective means of encouraging parents to register their child's birth. She also asked how the State party ensured that street children and Roma children were registered and consequently obtained identity documents.

24. **The Chairperson**, noting that the report stated that a person under 18 years of age acquired full civil capacity when he or she married, asked whether a married minor stopped receiving the protection afforded children and whether the minimum legal age for marriage for girls still differed from that for boys.

The meeting was suspended at 11.05 a.m. and resumed at 11.30 a.m.

25. **Mr. Safiullin** (Ukraine) said that, between 1995 and 2010, Ukraine's population had decreased from 52 million to approximately 46 million, owing mainly to a low birth rate and a high mortality rate. The State had set itself the goal of increasing the birth rate and the situation was already improving, given that the infant mortality rate was on the decrease.

26. The administrative reform that had come into effect in December 2010 was aimed at streamlining and simplifying State bodies and would not have any negative impact on the child welfare system. The Department of Youth and Sport, which, following the reorganization, came under the Ministry of Education, Science, Youth and Sport, had assumed all the functions previously exercised by the former Ministry of the Family, Youth and Sport. However, that change in no way meant that the State intended to reduce its activities in the children's sector. The Office of the Commissioner for Human Rights was fully in line with the Paris Principles and had been granted "A" status by the International Coordinating Committee of National Institutions for the Promotion and Protection of Human Rights (ICC). The Commissioner was assisted by a special adviser on children's rights and worked closely with civil society.

27. **Ms. Horbunova** (Ukraine) said that, under article 34 of the Constitution, all persons, including children, had the right to express their opinions freely. Surveys of children were taken regularly in order to give them an opportunity to put forward their ideas; discussion forums were organized with the participation of children (for example, a parliamentary debate had recently been held in which children had spoken about their rights); and children could express themselves in the media.

28. Parliament had just adopted a bill aimed at strengthening action against corruption, particularly among judges, and judicial reforms had been undertaken with a view to imposing more stringent rules on judges and more severe punishments in the event of violations. Proceedings had already been brought against some 30 judges and several had been dismissed.

29. **Ms. Ortiz** asked what measures had been taken to ensure respect for the privacy of children in alternative care facilities and in schools.

30. **Mr. Filali** asked whether the process of harmonizing the country's legislation with the Convention had been completed and whether legislative texts on the protection of unaccompanied minors, migrant children and street children had been drafted.

31. **Ms. Horbunova** (Ukraine) said that the legal age of marriage remained 17 for girls and 18 for boys, in accordance with a traditional approach founded on physiological and psychological criteria. She pointed out that article 12 of the European Convention on Human Rights did not set a specific minimum age for marriage. It was possible for minors to marry from the age of 14, but marriage at such an early age was unusual and was permissible only on the basis of an exemption granted by judicial decision when in the best interests of the child – for example, if the girl was pregnant. Once married, minors remained the responsibility of their parents or legal guardian and were eligible for the protection provided for in the Convention, while at the same time enjoying full legal capacity.

32. The maximum fine for non-compliance with the obligation to register a child within one month of the birth, which was three months' minimum wage, was rarely imposed, since that type of non-compliance was very rare, even among the Roma population. The State carried out awareness-raising campaigns on the subject and helped families that were late in declaring the birth of their child. The matter had not been raised by the social organizations representing the Roma when they had been consulted in order to obtain the views of minority groups.

33. **Mr. Citarella** asked how many unregistered children there were in Ukraine.

34. **Mr. Filali** asked whether the Convention and other international human rights treaties took precedence over domestic law.

35. **Ms. Horbunova** (Ukraine) replied that international human rights treaties took priority over domestic law. The delegation did not have figures on the number of unregistered children, but there were very few cases. Fines were imposed only when the individuals concerned could not justify their failure to register in time.

36. **Ms. Filipishina** (Ukraine) said that the inter-agency commission on child welfare, which had been established in 2009, had 17 members (ministers, deputy ministers, ministers' representatives and representatives of UNICEF). Its mandate was to coordinate welfare activities and to address matters that could not be resolved by any given minister, such as approving the annual report on the status of children in Ukraine or dealing with a health crisis. After completing its deliberations, the commission could take action against local authorities that had not taken the necessary measures to implement a national plan.

37. The activities specified in the National Plan of Action for the implementation of the Convention had not all materialized, owing to the delay in the adoption of the budget. About 90 per cent of the some US\$ 100 million allocated to the Plan was earmarked for improvements in children's health, social activities, the protection of children's rights, education and information and child welfare services.

38. For 2011, the National Plan of Action called for various measures that had been approved by higher bodies. Funding for the Plan was provided for by the Finance Act for

2011. In cooperation with representatives of UNICEF, the Ministry responsible for youth had prepared a document setting out a system for monitoring the implementation of the Plan. In 2011, data would for the first time be assembled centrally and locally with a view to evaluating the implementation. A system would be set up to continue the monitoring until 2016, as provided for in the Act on the National Plan of Action.

39. Financial resources were distributed among various institutions on the basis of annual statistics relating to the funding of the various sectors of activity, such as health, education, social protection. There was no problem with data collection. In 2011, it would be taken on by the Department of Youth and Sport.

40. Children's institutions were overseen by their supervising authority, in accordance with the relevant law. The regional child welfare services endeavoured to inspect at least four local services (such as shelters or social and psychological rehabilitation centres) once a quarter, subsequently reporting their findings to the central authority. The central child welfare service came under the control of the Department of Youth and Sport.

41. Every effort was made to ensure that, in each service, children had access to the various forms of assistance they needed. Each service determined what measures to take to protect the child and the type of alternative care facility best suited to his or her situation, depending on whether the parents were or were not capable of discharging their family obligations.

42. **Ms. Ortiz** asked what the State party was doing to ensure that the central and local authorities, teachers, practitioners and families recognized children as the subject of rights and that children participated in that attitudinal change.

43. **Ms. Filipishina** (Ukraine) explained that the child welfare service was distinct from social centres for the family and children, which provided direct support to families.

44. The children's rights data-collection system, established at the initiative of UNICEF, compiled a register of children living in difficult conditions and made it possible to monitor the implementation of the National Plan of Action. It was complementary to the system set up by the State Department for Adoption and the Protection of Children's Rights, which gathered information — disaggregated by age, region and presence or absence of parents — on orphans, children lacking parental care and children with only one parent.

45. In the event of a threat to a child's health, the child could be removed from his or her family. The case was then referred to the courts, which could subsequently decide to deprive the parents of their parental authority or to remove the child from his or her family without deprivation of parental authority and place the child with other relatives, in a foster family or in an institution. Meanwhile, social workers helped the child's family and the situation was re-evaluated after one year in order to determine whether the threat persisted.

46. There were 250 NGOs in Ukraine. Of those, 70 were national associations for the protection of children's rights that had regional offices. The State worked with them in a variety of ways; for example, it invited them every year to submit proposals for activities to be included in the National Plan of Action. In addition, a working group made up of 26 NGOs was consulted on bills to be submitted to parliament. Moreover, there were constant discussions on the Internet.

47. Ukraine did not have data on the number of children whose views were not taken into account; however, of the 6.5 million households with children in Ukraine, some 25,000 encountered difficulties with their children and it could be assumed that they had little respect for the right of children to express themselves. In the vast majority of families, family values were very important and a child's opinion was duly taken into account.

48. **Mr. Zermatten** said that social or family-related problems should not be equated with failure to respect the child's right to be heard.

49. **Ms. Filipishina** (Ukraine) said that the figures she had cited corresponded to the number of families receiving non-material social assistance. The law amply guaranteed a child's right to express his or her opinion. Minors thus had direct access to the justice system from the age of 14 in order to defend their rights and, in any case involving adoption or placement decision, the courts were required to hear the child concerned.

50. **Ms. Herczog** pointed out that children who were institutionalized in Ukraine were divided according to age group, which meant that brothers and sisters were separated. That being so, it was difficult to believe that their views were taken into consideration.

51. **Mr. Krappmann** said that, regrettably, respect for children's views continued to come up against traditional views, in all parts of the world, regarding the proper role of the child. However, attitudes were beginning to change, largely as a result of efforts by NGOs, and no doubt that was also the case in Ukraine.

52. **Mr. Pūras** (Country Rapporteur) pointed out that, in the past 20 years, Ukraine had experienced very high mortality, owing mainly to a lack of the skills required to deal with the new challenges that it faced. Piecemeal and sporadic efforts should be abandoned and instead there should be a national public health policy subject to monitoring by a well-defined coordination mechanism. With that in mind, the delegation should indicate how much the State party invested in primary health care and whether it envisaged streamlining its system of specialized medicine and curbing the practice of extra billing, which discouraged some families from consulting doctors.

53. He urged the State party to provide street children, HIV-positive children and child drug addicts with services that respected their dignity. In that regard, it was worrying that a recent decree required doctors to report drug addicts.

54. It was surprising that cases in which children with mental disabilities were taken away from their families were characterized as "successful". He urged the State party to switch from a system that favoured institutionalization to one providing community care, drawing inspiration from the declaration "Better Health, Better Lives: Children and Young People with Intellectual Disabilities and Their Families" adopted by the World Health Organization in 2010.

55. **Ms. Herczog** asked what criteria were used in choosing between placement in an institution and placement in a foster family, whether the average length of placement in the alternative care system could be shortened and what follow-up and integration services were offered to children before they left the system. In addition, she urged the State party to adopt the system of baby-friendly hospitals that had been introduced in some countries.

56. **Ms. El-Ashmawy** asked what steps were being taken to tackle the underlying reasons for the existence of street children and to reintegrate such children into society. Children who worked as prostitutes should be treated as victims rather than criminals and it was essential that the age of consent to sexual relations should be clearly defined. The delegation should indicate whether minors were held separately from adults in police stations, whether a free telephone hotline had been set up for the purpose of reporting cases of the sale of children, child prostitution and child pornography and whether there had been any prosecutions in relation to such cases.

57. **Mr. Pollar** requested specific information on the types of assistance provided to parents, particularly community parenting services (including places where mothers could exchange experiences or libraries and toy-lending services), assistance for single-parent families, mechanisms for screening families at risk and care facilities for young children whose parents worked. He asked whether young fathers were entitled to paternity leave.

58. **Mr. Krappmann** said that unaccompanied minors seeking asylum or in transit did not seem to have a guardian assigned to them in all parts of the country and that they were not systematically guaranteed access to health and educational services during the very long process during which their application was considered. He wished to know whether the best interests of such children were taken into consideration before they were returned to their country of origin.

59. **Mr. Zermatten** said it was regrettable that the bill drafted following a general study on youth justice conducted in 2006, which would have led to better protection for children, had been abandoned in 2010 under the weight of conservative and religious pressures. He was concerned that the new bill currently being formulated might be too punitive.

60. The delegation should explain the precise nature of the special academies that had recently been established. It should also describe the youth justice system in greater detail, indicate whether young people between the ages of 16 and 18 could, in fact, be treated as adults and explain what criminal proceedings could be brought against children between the ages of 11 and 14 who committed socially dangerous acts. Moreover, the latter concept should be defined.

61. **Mr. Guráň** asked whether any progress had been made as a result of the national adoption year in 2008, whether the State party intended to ratify the Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption and what had been the outcome of the project carried out in conjunction with IOM to assist victims of trafficking.

62. **Ms. Aidoo** said that it was very worrying that the prevalence of sexually transmitted diseases was on the increase among young people. She encouraged Ukraine to speed up the implementation of its national prevention plan and develop a general health policy in the area of adolescent health. She would welcome further information about teenage abortions and the age at which it was possible to consult a doctor without parental authorization.

63. **The Chairperson** asked what measures were being taken against the illegal employment of children below the age of 15, which was very widespread, particularly in the mining industry, and against prostitution. According to the periodic report, the number of orphans was decreasing; however, that contradicted the information provided in the report submitted by Ukraine as part of the universal periodic review process.

The meeting rose at 1 p.m.