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COMMITTEE ON THE RIGHTS OF THE CHILD

Forty-eighth session

SUMMARY RECORD OF THE 1319th MEETING

Held at the Palais Wilson, Geneva,
on Wednesday, 21 May 2008, at 3 p.m.

Chairperson: Ms. ORTIZ (Vice-Chairperson)

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In the absence of Ms. Lee, Ms. Ortiz, Vice-Chairperson, took the Chair.

The meeting was called to order at 3.15 p.m.

CONSIDERATION OF REPORTS OF STATES PARTIES (continued)

Second periodic report of Bulgaria (CRC/C/BGR/2; CRC/C/BGR/Q/2 and Add.1, CRC/C/BGR/CO/2)

1. At the invitation of the Chairperson, the members of the delegation of Bulgaria took places at the Committee table.

2. Mr. ZERMATTEN, noting that substantial progress had been achieved in the system of juvenile justice since the adoption of new legislation in 2004, asked the delegation to clarify how the system of specialized judges working alongside non-specialized judges worked in practice. He believed the juxtaposition of criminal offences and “antisocial behaviour” created room for uncertainty of jurisdiction. Similarly, the fact that minors under 14 years of age, who were not considered criminally liable, were nevertheless at the mercy of correctional sanctions imposed by the authorities of local communities was also an anomaly. He therefore wondered how the system could be strengthened in order to provide procedural guarantees for minors under 14.

3. Mr. KOTRANE wished to know how effective the Government’s efforts to combat forced labour had been, and whether there were enough labour inspectors to monitor the implementation of legislation in that area. Likewise, in the case of sexual exploitation, he asked whether it would be possible to establish procedures to strengthen the relevant preventive mechanisms.

4. Following up the issue raised by Mr. Zermatten, he said that the fact that minors under 14 were obliged to undergo sanctions, even though they were not criminally punishable, in effect amounted to a lowering of the age of criminal responsibility. In addition, he asked whether the office of the public prosecutor had a service that conducted investigations into cases involving children, and, if so, whether the training and working methods involved were specialized in dealing with children.

5. He referred to paragraph 141 of the second periodic report (CRC/C/BGR/2), which stated that the maximum period of detention for minors was 24 hours. In that vein, he wished to know the maximum duration for which children could be held in preventive detention before they were transferred to the relevant jurisdiction.

6. Mr. PURAS asked whether the Government had envisaged the adoption of policies to reduce tobacco dependence, or to lower the exposure of children to passive smoking. He was curious to know how health-care services could be developed to attract adolescents, especially with regard to their need for counselling in reproductive and mental health issues. In that vein, he asked for information on plans for the development of mental health care aimed at children, adolescents and adults, since it was crucial for States to invest in the emotional resilience of its population.

7. He also asked how much attention had been paid to the prevention of violence against and among children, especially in schools, to early childhood education and to the prevention of abandonment of children with disabilities.

8. Ms. KHATTAB expressed an interest in the steps taken by the Bulgarian Government to curb trafficking through its territory. She asked, in particular, about the achievements of the National Anti-trafficking Commission and the National Programme for Combating Trafficking in Human Beings, the composition of the Commission and how trafficking was defined in Bulgarian legislation. Furthermore, she was curious to know the Government's position on international initiatives to combat trafficking and its level of participation in such efforts.

9. The CHAIRPERSON noted the efforts made by the State party to amend its legislation in accordance with its obligations under the Convention on the Rights of the Child and the Hague Convention on Protection of Children and Cooperation in Respect of Intercountry Adoption. She asked when Bulgaria had harmonized its legislation, and whether there were still matters pending in that regard, which body was responsible for the implementation of the Conventions, and what professional and financial resources were provided to enable compliance. She also enquired about the existence of bilateral agreements, the number of accredited adoption agencies and the total number of national and international adoptions registered.

10. Mr. FILALI asked how effective the 2005 adjustments in the probation system had been, and the number of cases it had processed. With regard to the deprivation of the liberty of minors, he pointed out that the current approach did not provide the possibility for minors to secure a procedure for the review of their situations, and he believed that legal counsel should be involved at that stage in order to initiate such a procedure.

11. Mr. PARFITT asked what form of reproductive health education was taught in schools, and whether there were existing laws that governed the age of consent to medical treatment. With reference to deinstitutionalization, he asked whether the Government had made plans to ensure that children were not given up for adoption solely on account of their parents' financial situation. He wondered how effective foster care recruitment had been as an alternative to placing children in institutions, and how successful the use of the extended family network had been in caring for children who were victims of child abuse or neglect.

12. Ms. HERCZOG asked about parent education and the levels of support and preparation provided to members of the extended family caring for their relatives' children, and the assessment and monitoring systems established. She wished to know whether the Government had devised plans for placing children under the age of 3 years in foster care, whether it had established mechanisms for following up on intercountry adoptions, or whether a system of documentation and assessment had been devised for the placement of children at risk.

13. Ms. ANTONOVA (Bulgaria) said that there were just under 1.4 million children in Bulgaria. In describing the methodology developed for data collection, she said that such data were useful for making calculations, comparisons, analysis and policy forecasts. Computerized databases were maintained according to specific indicators on various categories of children. The body of material compiled was gleaned from a number of sources, including institutes, specialized agencies and non-governmental organizations (NGOs), and was based on precise criteria to ensure regularity and accuracy.

14. Mr. ZERMATTEN took it that data collection was apparently limited under current legislation, but he asked the delegation to clarify whether such legislation was limiting the actual gathering of data or simply access to data.

15. Ms. ANTONOVA (Bulgaria) said that the Government depended on ministries or other institutions with the appropriate capacity to provide certain components, for example health status and birth rate. Child welfare statistics were indeed available through the national information system.

16. With regard to the placement of children in institutions, she said that new legislation had narrowed access to institutions, and greater efforts were made to define the level of vulnerability of children and to conduct thorough assessments before placements were made. The removal of children from their core families was a method of last resort, after all other options had been exhausted.

17. Change and reform of childcare had been implemented through a series of meticulous inspections, analysis and quality assessment of the operations of specialized institutions, involving a wide range of Government bodies at the municipal and national levels. A new paradigm had been established, which had resulted in the restructuring and closure of a number of institutions.

18. The CHAIRPERSON stressed the importance placed by the Committee on a rights-based approach to data collection and the incorporation of the Convention into the development of child protection programmes.

19. Mr. PETROV (Bulgaria), responding to allegations on inhuman treatment by the police, said that the relationships between children and the police were effectively regulated by legislation, which was publicized in the official gazette. Child pedagogical officers specialized in the prevention of antisocial behaviour and worked towards the protection of life, health and property. The officers were supervised by highly-educated inspectors, appointed by the Ministry of the Interior, who had the exclusive right to handle cases involving children. He further stressed the importance of the Code of Ethics for police departments and a handbook on best practices used by police and other professionals working with children.

20. The CHAIRPERSON asked for clarification of the meaning of antisocial behaviour and an explanation of the methods used by the police to identify such behaviour, and said she was interested in learning about existing mechanisms at the local level to handle its manifestations.

21. Mr. PETROV (Bulgaria) said that within the school curriculum, students were taught their rights in the event of detention. He further explained that the work conducted by pedagogical officers took place in offices which were separate from the police stations.

22. Ms. BORISSOVA (Bulgaria) said that the Penal Code made a clear distinction with regard to criminal responsibility. No punitive measures could be imposed on children under 8 years of age, and between 8 and 14 years, children might be subject to alternative or educational measures. She also elaborated on the definition of “antisocial” behaviour, which encompassed acts which were deemed publicly dangerous or morally offensive.

23. Ms. HERCZOG asked whether there was formal cooperation between the social services and the juvenile justice system. With regard to alternative measures, she asked whether, since joining the European Union, Bulgaria had considered implementing restorative justice as a means of resolving problems relating to minors.

24. Mr. KOTRANE said several other countries had reported that the minimum age of criminal responsibility was 7 or 8 years and, under their systems, judges handed down similar educational or correctional measures; they did not put children in prison, they gave them warnings and guided them towards a more social type of behaviour. However, in Bulgaria, it appeared that children were not brought before the courts, but rather before a committee that placed them in an institution, where they were taught to behave more socially. In other words they received an administrative sanction. Perhaps it was better to bring children before a judge rather than before an administrative authority. The Committee did not understand how the system worked, or the real minimum age of criminal responsibility, because it appeared that, as of 8 years of age, children were subject not to deprivation of liberty but to corrective measures based on their so-called antisocial behaviour.

25. Ms. AIDOQ (Country Rapporteur) said that, according to the table on adolescents and minors victims of crimes in the written replies (CRC/C/BGR/Q.2/Add.1), only 24 children had been victims of child prostitution and sexual exploitation in 2006, whereas the text (para. 69) stated that 358 children had passed through the educational centres for children with antisocial behaviour related to prostitution. The Committee required clarification as to why so many children appeared in the system, when only a minimal number were described as victims; also regarding the time children spent in the centres.

26. Mr. ZERMATTEN said the Committee was concerned because it appeared that child victims, particularly of prostitution and homosexual practices, were treated as offenders.

27. Mr. PETROV (Bulgaria), referring to the significant differences in the figures mentioned in the report, said that the figure of 358 children had been taken from police statistics and referred to children who had passed through the children's pedagogical offices in connection with prostitution; however, it did not mean that they had been victims of violence or necessarily involved in prostitution or sexual exploitation.

28. The CHAIRPERSON asked why children were sent to the children's pedagogical offices if they were not victims.

29. Mr. PETROV (Bulgaria) said that such children were not sent to the offices, but merely passed through them. For example, if a specific case of child prostitution was being investigated, the witnesses, who could be other children, would come to a police station and be put on file; however, they were not victims of sexual exploitation, but merely at risk of becoming victims. The police monitored them and made them aware of the risks to which they were exposed. Preventive actions took place at the children's pedagogical offices away from the police stations. The offices had regular business hours and children could go to them without being summoned. A full police report was prepared whenever a child was summoned to a police station or if a child was provided with police protection.

30. The CHAIRPERSON said the Committee would like to hear the delegation's comment on allegations of mistreatment on police premises.

31. Mr. PETROV (Bulgaria) said that there were no such cases. Police stations were very visible places; there was a special telephone number that victims could call and any complaint would be considered very seriously and investigated. The inspectors of the children's pedagogical offices had to have special qualifications, which ensured that torture or abuse of authority could not occur at police stations. It would be useful if the Committee could be more specific about cases of mistreatment of children by the police.

32. The CHAIRPERSON asked how complaints about mistreatment in other institutions were dealt with and what children could do if they were mistreated.

33. Ms. BORISSOVA (Bulgaria) said there were special provisions regulating the execution of sentences of underage persons to protect them from degrading or inhuman treatment, and from torture. All persons deprived of liberty had the right to complain in writing to the relevant State authorities and to the United Nations or the European Council, and their letters were delivered uncensored.

34. The CHAIRPERSON said that it would be useful to know what happened if a complaint was filed and also the number of complaints received.

35. Mr. PETROV (Bulgaria) said he had no official statistics, but when a complaint was filed, it would be investigated by a special inspectorate of the Ministry of the Interior. If the case involved a child, a committee was created with representatives of the children's pedagogical offices and the police. In cases involving violence at a police station, a thorough investigation was carried out, and if it was established that a police officer has committed an abuse of authority and used violence on a child, he or she would be punished and usually dismissed. Bulgaria was trying to apply a zero-tolerance policy in that regard.

36. Ms. ATANASSOVA (Bulgaria) said that the number of complaints was increasing - 1,879 complaints of violence had been received in 2007; however, that could be explained by the fact that a new and simpler means of filing complaints had been introduced recently. Most complaints involved violence against children within the family, but complaints were also received for violence to children on the street, in schools and specialized institutions, and in foster homes. A hotline funded by the national budget had been introduced in November 2007, the intention being to provide telephones in accessible places in all institutions to ensure that children had access.

37. Bulgaria had harmonized its legislation with the Hague Adoption Convention in 2004 and the draft family code containing new concepts on adoption was currently before Parliament. Bulgaria had a protective policy that encouraged national adoptions, while regulating them strictly. In recent years, there had been an increase in national adoptions and a decrease in international adoptions.

38. The Government had recently granted 14 permits for NGOs to open shelters for street children with government funding under the Social Assistance Act. Street children could also be placed in special 10-day centres and in temporary placement homes. Many of the so-called street children were not homeless, but spent most of the day on the street, and their family situation needed to be investigated.

39. Ms. AIDOQ (Country Rapporteur) asked whether the Government provided subsidies to the NGOs that were granted licences to provide shelters and other services to children or whether they had to find their own funding.

40. Ms. ATANASSOVA said that funding was provided by the State under the Social Assistance Act.

41. The CHAIRPERSON asked how the Social Assistance Act determined assistance to the family, as well as how the temporal limitation to such assistance worked.

42. Mr. TEHOV, referring to the temporal limitation, said that, under the Act, an unemployed person could receive temporary assistance limited to 18 months; the intention was not to exclude people from social assistance but to incite them to receive vocational training, for which they were paid. However, when an individual with children ceased to receive assistance, financial assistance for the children was increased.

43. There were four laws that provided assistance to children. Under the Social Assistance Act they could receive targeted amounts for items such as health, travel and heating. The Integration of People with Disabilities Act provided supplements and other targeted assistance for children with disabilities. Social assistance was also available under the Child Protection Act, which granted monthly payments for prevention programmes and the reintegration of children placed with the extended family or in foster homes. Lastly, under the Children and Family Assistance Act, many children with disabilities who lived with their families received monthly payments. In addition, there had recently been large increases in subsidies for children in institutions.

44. The CHAIRPERSON said that the Committee wished to know why severely disabled children were confined in institutions and not included in special education programmes.

45. Ms. ANTONOVA said that Bulgaria was striving to provide a stable environment for children and it was evidently best for a child to remain within the family. A manual had been provided to all hospitals advising staff on how to tell parents that their child had been born with a disability and urging staff to recommend that such children be raised in a family environment. In the past, hospital staff had often advised parents to institutionalize children with disabilities. Nevertheless, laws did not always follow best practice, and it was necessary to ensure that special institutions did not receive more funding than families and foster families.

46. Mr. TEHOV said that families received additional social assistance linked to school attendance. Furthermore, new alternative services had been introduced and payments to professional foster families had been augmented. It would be incorrect to claim that the temporal limitation was targeting any specific group.

47. Ms. ANTONOVA said that incentives were provided for employers to hire young mothers, who were provided with free childcare so that they could pursue their career paths. Foster families provided an alternative to institutionalization for raising children. In 2007, the concept of professional foster families had been introduced; their short-term role was to support the relationship between the child and its biological family, while their long-term role was to develop an affective relationship with the child. Training was being provided by NGOs. The children's pedagogical offices were supervising the whole process. However, placement with the extended family, also subject to training and evaluation, had been found to be more successful.

48. The CHAIRPERSON asked whether there were sufficient human and financial resources for training foster families and who was responsible for that aspect.

49. Ms. ANTONOVA said that all specialized and licensed organizations could provide training. There were two curricula: one for children with disabilities and a more general one for all children. The training was monitored by the child protection departments.

50. Ms. PERCHINSKA (Bulgaria) said that the State budget for health care for children was funded in three ways: through the National Health Insurance Fund, covering areas such as primary health care, including immunizations, and hospital care; through the municipalities, covering areas such as the provision of crèches; and through the Ministry of Health, which was responsible for funding certain activities relating to children's health, including obtaining vaccines and providing medication.

51. Reproductive health education formed part of Bulgaria's national demographic strategy. The State party had recognized that the abortion rate among 15 to 18-year olds was relatively high, and it was actively working with NGOs and UNICEF in the area of HIV/AIDS and sexually-transmitted diseases. Significant progress had been made regarding the promotion of breastfeeding as a result of campaigns on the issue. All general practitioners had been instructed to provide patients with sufficient information, and an institution accreditation system would award points to health-care institutions that promoted breastfeeding.

52. In response to a question about children's rights and the provision of health-care services without the parents' consent, she said that the informed consent of parents was required for children under the age of 14 years for all medical treatment. In the case of children aged 14 to 18 years, an informed decision by both the child and the parent was required. In partnership with NGOs, the State party had identified the problems concerning reproductive health and was currently working on legislative initiatives on children's health.

53. A mental health programme had been completed in 2005 with good results, and had been integrated into and followed up in the mental health policy and action plan for 2004-2012. Current policy was to reduce the number of beds in hospitals used for active treatment and to place patients in sheltered homes near their families. Regarding children, she said that the number of child psychiatrists had been increased but that there was still a shortage. A new practice concerning children with autism had been introduced recently in day centres. Although progress had been made in the area of mental health, much remained to be done. The national programme for the prevention of suicidal behaviour focused mainly on education and prevention of suicide attempts at the school level. Research had shown that most suicide attempts were made by children aged 10 years or older, not by younger children.

54. A national programme on smoking had been in place for eight years, funded by the Ministry of Health. It had found that nearly 70 per cent of children were exposed to passive smoking at home, and that the smoking rate among children themselves was high. The programme, in partnership with the Ministry of Education, was therefore organizing campaigns to encourage smokers to quit and organizing activities for the World Day against Smoking. A regulatory framework allowed smoking in designated areas. In a survey, over 90 per cent of those interviewed had expressed approval of the measures taken by the Government to reduce smoking in public places.

55. Mr. SLAVOV (Bulgaria) added that smoking was prohibited in schools, ministries and other public institutions.

56. Mr. PARFITT repeated his question as to how children were provided with information on reproductive health and whether the subject was included on the national curriculum.

57. Mr. SLAVOV (Bulgaria) said that a number of teaching hours at secondary school were earmarked for health education. Reproductive health was therefore included on the curriculum, details of which could be found on the website of the Ministry of Education.

58. Ms. PERCHINSKA (Bulgaria) said that a peer programme using specially trained children, which had been developed in cooperation with NGOs in relation to prevention of HIV/AIDS and sexually-transmitted diseases and which was based on the concept that children usually trusted their peers, was proving to be a useful tool for disseminating health information in general.

59. Ms. ATANASSOVA (Bulgaria), on the subject of child labour, said that although the data cited had been overtaken, child labour was still a problem in Bulgaria. According to the Labour Code, children aged 16 years, and exceptionally those aged 15 years, were allowed to work with the permission of the Social Assistance Agency. Child exploitation was monitored through the Child Protection Department and through other monitoring activities. The problem was that no data were yet available for Bulgaria as a whole, since research had been undertaken in 10 regions only. The issue was a priority for the State party, and it was working with NGOs and the International Labour Organization (ILO) to remedy the situation.

60. Ms. AIDOQ (Country Rapporteur) said that she was pleased that the State party acknowledged that no recent research had been conducted into child labour. Recalling that, in research conducted in 2002, 1.3 million children had been studied, of which 42 per cent were working in domestic service, 32 per cent in family farms and 6.4 per cent for the private sector, she said that new research had become necessary in order not only to ascertain the numbers of children involved, but also to collect data such as their geographical location and the reasons why they were working. Such research could then form the basis of a national strategy and would enable the State party to relate programmes to needs.

61. Ms. ATANASSOVA (Bulgaria) disputed the data cited, since the figure of 1.3 million amounted in fact to the total number of children in Bulgaria in 2002. It was true that in rural areas some children were involved in agricultural work at certain times of the year. The school dropout rate was being investigated and some pilot projects were being run in certain areas, but she could not agree with the figure cited.

62. Ms. BORISSOVA (Bulgaria), regarding sanctions for employing children, said that the penalties of deprivation of liberty and fines were imposed on employers of children, and she quoted from legislation that laid down the specific penalties for employing children of various ages. She then gave statistics on the number of registered cases and underage victims from 2005 to 2007.

63. Regarding juvenile justice, she explained that Bulgarian legislation aimed to influence children through non-punitive measures and outside court. According to the Penal Code, children under the age of 14 years were not criminally liable; certain educational, not punitive, measures could be imposed on children who committed “socially dangerous acts”, a term which was clarified and developed in the law on combating antisocial behaviour of minors. The only two measures that could be imposed by the court were placement in a correctional boarding school and placement in a social pedagogical boarding school, for which the Ministry of Science and Education was responsible. A strict procedure was in place for safeguarding children’s rights during the legal process, including their right to a trusted representative and the right to appeal. Other measures that could be imposed in or outside court included the obligation to present an apology to the victim and correctional supervision of children and parents. Placement in either type of boarding school was used only as a last resort, when none of the other measures had proved effective and there was no other appropriate social environment available for the child. The maximum stay in the schools was set at three years, during which time education and training, including professional qualifications, was provided up to the age of 16 years, and up to the age of 18 years if requested.

64. Ms. HERCZOG said that the problem was that the meaning of the word “antisocial” could be very broad, and requested clarification as to its definition. She enquired as to whether any research had been conducted into the success of the boarding schools, and into the extent to which the child could reintegrate into society after such a long term.

65. Mr. CITARELLA expressed concern that the process of imposing measures on children under the age of 14 years could be classed as a criminal procedure, but that children were unable to defend themselves and the measures were imposed without the children’s participation.

66. Mr. ZERMATTEN said that the coexistence of two systems - the regular criminal justice system which applied from the age of 14 years and the category of pseudo-offences as created by the act on antisocial behaviour, which were arbitrary, not clearly defined and left to the discretion of social workers - was a major problem and was contrary to international standards, since it left open the possibility for arbitrary decisions and offered minimal procedural guarantees. The system was confusing and should be reformed.

67. Mr. FILALI, endorsing Mr. Zermatten’s comments, said that the criminal justice system and the offences must be clearly defined. He repeated his question as to whether it was possible for children to initiate appeal proceedings, either in their own right or through their representatives, against decisions to place them in detention and whether it was possible to consult a lawyer at the beginning of the procedure.

68. Ms. BORISSOVA (Bulgaria) said that an “antisocial act” had nothing to with an offence; “offence” was applied only as explicitly provided in the Penal Code and was not to acts committed by children under the age of 14 years. The term “antisocial act” was clearly defined in article 49 (a) of the Penal Code as one which was publicly dangerous, and educational measures were imposed on juvenile offenders.

69. Children did have the right to appeal a sentence of detention either by themselves or through a representative. Detention was not applied to children under the age of 14 years, and only rarely as a last resort to those aged between 14 and 18 years for very serious offences.

70. Mr. TEHOV (Bulgaria) said that of the 35 people that worked in the Ombudsman’s Office, at least 32 dealt with child-related issues. Bulgaria was a signatory to the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) and was preparing to sign the Optional Protocol to the Convention against Torture (OPCAT). Everything that had been done in Bulgaria over the previous eight years had followed the rights-based approach, and the principle aim of the national strategy was effective enjoyment of the rights of children.

71. Ms. BORISSOVA (Bulgaria), in response to a question about the United Nations Global Initiative to Fight Human Trafficking (UN.GIFT) and a Council of Europe campaign which had ended the previous year, said that they had provided useful opportunities to share and learn good practices.

72. Ms. KHATTAB requested details of the composition of the national commission against trafficking and asked how the offence of trafficking was defined in domestic legislation.

73. Ms. BORISSOVA (Bulgaria) said that a new section of the Penal Code added in 2002 and the law on international trafficking in human beings of 2003 provided definitions of and sanctions for internal and international trafficking. A specific provision was introduced in 2006 to cover the case of trafficking a pregnant woman with the aim of selling her child. The national commission on trafficking in human beings was chaired by the Deputy Prime Minister and included the Deputy Ministers of foreign affairs, health, education and science.

74. Ms. VUCKOVIC-SAHOVIC (Country Rapporteur) thanked the State party for its hard work. She expressed the hope that it would find the Committee’s recommendations useful and constructive, and encouraged it to use them as a reference point to measure what had been achieved and what remained to be done.

75. Mr. TEHOV (Bulgaria) thanked the two country rapporteurs for their hard and objective work and the Committee for its rigorous examination and constructive criticism, which was for the State party’s own benefit. Expressing regret that there had not been sufficient time to address all issues, he said that his delegation remained available for any further discussions. The Committee’s recommendations would be eagerly awaited and taken seriously by all concerned.

The meeting rose at 6 p.m.