



**Convention on the
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COMMITTEE ON THE RIGHTS OF THE CHILD

Forty-fifth session

SUMMARY RECORD OF THE 1247th MEETING

Held at the Palais Wilson, Geneva,
on Monday, 4 June 2007, 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 (agenda item 6) (continued)

Initial report of Ukraine under the Optional Protocol on the sale of children, child prostitution and child pornography (CRC/C/OPSC/UKR/1; CRC/C/OPSC/UKR/Q/1 and Add.1; HRI/CORE/1/Add.63/Rev.1)

1. At the invitation of the Chairperson, the members of the delegation of Ukraine took places at the Committee table.
2. Mr. GRYTSENKO (Ukraine), introducing the initial report of Ukraine under the Optional Protocol on the sale of children, child prostitution and child pornography (CRC/C/OPSC/UKR/1), said that Ukraine was a democratic State which, like other European countries, accorded priority to the protection of human rights. He wished to inform the Committee that 2006 had been proclaimed the year of the rights of the child in Ukraine.
3. The drafting of the report and written replies (CRC/C/OPSC/UKR/Q/1/Add.1) had been coordinated by the Ministry for Family, Youth and Sport. However, other government agencies dealing with legal, social, education, law enforcement, medical and scientific issues had also been involved.
4. Since ratifying the Optional Protocol, Ukraine had focused on bringing its legislation into line with international standards. In January 2007, amendments had been introduced to the Criminal Code to ensure compliance with the United Nations Convention against Transnational Organized Crime and its Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children. In 2006, Ukraine had ratified the Hague Convention on the Civil Aspects of International Child Abduction. A national plan of action for the period 2006-2016 on the implementation of the provisions of the United Nations Convention on the Rights of the Child had been prepared and was currently before the Cabinet of Ministers for consideration. In August 2006, the Government had ratified the European Convention on the Exercise of Children's Rights. Ukraine intended to accede to the Hague Convention on Protection of Children and Cooperation in respect of Intercountry Adoption in the near future.
5. He stressed the Ukrainian Government's willingness to cooperate with international human rights mechanisms. In that connection, he drew attention to the visit to Ukraine in October 2006 by the Special Rapporteur on the sale of children, child prostitution and child pornography. Although the Special Rapporteur had made a number of controversial and unsubstantiated statements, the Government would take due account of his constructive recommendations.
6. Over the past few years, government agencies had been reformed. A department to combat offences relating to trafficking in persons and associated regional offices had been established under the Ministry of Internal Affairs. A State department for adoption and children's rights had been established under the Ministry for Family, Youth and Sport. At the beginning of 2007, the juvenile affairs services had been renamed children's affairs services.

7. Ukraine had established 28 centres for the rehabilitation of children who had been subjected to physical and psychological abuse, and 22 centres that provided social and psychological assistance for victims of trafficking in persons. Five special rehabilitation centres for victims of trafficking were already in operation in the country.
8. Over 1 per cent of children in Ukraine were orphans or were deprived of parental care. The Government's aim was to create conditions to guarantee every child the right to be brought up in a family environment. Over the past two years, the system of social protection for orphans had been reformed, and a system for providing social assistance to families who had difficulty in bringing up their children was being established. More than 23,000 families benefited from a range of social and psychological assistance.
9. Priority was accorded to placing orphans and children deprived of parental care with families. In 2006, the number of foster families had increased fourfold, as compared with the previous six years. Arrangements for national and international adoptions had been improved. State policy was geared towards expanding the national adoption system, since 19 per cent of Ukrainian families were willing to adopt a child. Legislation establishing a system of social and material assistance for adoptive families was being drafted. As a result of those changes, the number of children adopted by Ukrainian citizens each year had increased twofold.
10. In its efforts to combat the sale of children, child prostitution and child pornography, the Government must take account of the low standard of living of most families with children and the increasing number of people who worked abroad. The root causes of trafficking in persons could be eliminated only if the standard of living was raised and socio-economic reforms were completed.
11. Ms. VUCKOVIC-SAHOVIC (Country Rapporteur) said that Ukraine had recently made considerable efforts to comply with the Optional Protocol, and she hoped that that positive trend would continue. However, the problems of orphans and intercountry adoption still remained.
12. She drew attention to the note sent by Ukraine to the Office of the United Nations High Commissioner for Human Rights in which the State party pointed out that the mandate of the Special Rapporteur on the sale of children, child prostitution and child pornography did not include the assessment of corruption levels. However, the Committee on the Rights of the Child considered that corruption did come under its mandate, since corruption sometimes impeded implementation of the Convention. She therefore wished to know how Ukraine intended to prevent corruption, and whether any cases of corruption relating to intercountry adoption had been brought to court.
13. She asked the delegation to explain why the Government had not yet ratified the Hague Convention on Protection of Children and Cooperation in respect of Intercountry Adoption. Given the importance of that instrument, she wondered whether it might be possible to launch a campaign for ratification that transcended political interests and involved all stakeholders. The United Nations Children's Fund (UNICEF) might be able to provide assistance in that regard.
14. Although the Ministry for Family, Youth and Sport had primary responsibility for children's matters, it appeared that many decisions were made by decree. She questioned the

effectiveness of programmes administered by a central authority in the second largest country in Europe. The limited mandates of regional and local authorities could jeopardize the implementation of the Optional Protocol at the grass-roots level.

15. NGOs were very active in Ukraine but did not seem to receive State funding. She requested additional information on the specific programmes designed to protect children from trafficking and involvement in prostitution and pornography. The delegation should indicate whether such programmes involved NGOs. She asked how the Government intended to change attitudes regarding children involved in pornography and prostitution, since such children suffered the double stigma of being victims of criminal acts and being rejected by their families and society in general.

16. Mr. PURAS (Alternate Country Rapporteur) said that, in monitoring the care and protection of children, the Government must strike a balance between measures to enforce the law and providing various forms of financial, social and psychological assistance to families. He asked whether Ukraine had any pilot projects along those lines to assist families at risk.

17. He requested additional information on social rehabilitation centres in Ukraine. The human rights situation in such centres must be carefully monitored. It was important to ensure that child victims of abuse and exploitation were not subjected to further victimization in the centres. That would require properly trained staff who could deal with difficult and delicate situations when they arose. He wished to know more about the staff of such centres and what training they received.

18. Mr. PARFITT asked what measures the Interdepartmental Commission for the Protection of Children had adopted to promote the Optional Protocol. He wondered whether representatives of the Commission visited children in juvenile detention centres and other State institutions. He wished to know whether the Commission had any regional offices.

19. The delegation should inform the Committee of the current status of the national plan of action for the period 2006-2016. He asked whether civil society and children had been involved in its preparation.

20. Mr. ZERMATTEN said that, according to the report, victims of offences under the Optional Protocol were, as a rule, present during criminal proceedings, whereas they should be present only in exceptional circumstances. He asked whether the Government envisaged the use of audio or video techniques to protect victims. It seemed that public trials were the norm, while proceedings in closed session were not very common. Public trials violated victims' right to privacy and exposed them to further risks. That situation raised issues under article 16 of the Convention.

21. He enquired whether alternative forms of rehabilitation for victims had been considered, and whether any provision was made for compensation. He wondered whether the Ukrainian Government applied the Economic and Social Council's Guidelines on Justice in Matters involving Child Victims and Witnesses of Crime, which had been adopted in 2005.

22. He asked how the Government intended to follow up the recommendation of the Special Rapporteur on the sale of children, child prostitution and child pornography that Ukraine should

introduce a separate juvenile justice system for offenders and victims alike. He asked whether the transplant of organs derived from trafficking in persons was a punishable offence under Ukrainian law and, if so, whether any cases had been brought to trial.

23. Ms. HERCZOG asked whether medical care for children requiring rehabilitation included psychological support, and whether any training in psychology was provided for medical and legal professionals.

24. She asked why the State party promoted the placement of children in residential care homes, even as a temporary solution. There was a risk that children might remain in the care home on a long-term basis and thus be deprived of parental care, particularly if their parents had been persuaded that the care home was the best solution.

25. She wished to know how many foster carers there were in Ukraine and how many of them had received training in childcare. She requested additional information regarding the supervision of foster carers, and asked whether therapeutic foster care was available for children who had been exploited or trafficked. Given that there was no monitoring system for children adopted in Ukraine, she wondered how the Government could be certain that children were not being adopted for the purpose of trafficking or exploitation.

26. Mr. SIDDIQUI asked whether there was a body responsible for data collection in Ukraine, and whether it had the necessary financial and human resources to carry out its work. He wished to know whether that body had commissioned any independent studies on the protection of children's rights. The State party had failed to provide information on budget allocations for protecting the rights covered by the Convention. In order to assess the Government's commitment to children, it would be useful to know what allocations had been made to child health and education.

27. Mr. CITARELLA said that the State party should provide additional information about the increasing number of children being smuggled across the State frontier and explain why the problem of trafficking had increased during the period 2004-2006.

28. Mr. FILALI asked whether judges in domestic courts had invoked the Convention, and how the Optional Protocol was used to uphold the best interests of children. The sanctions for such offences as prostitution, paedophilia and the sale of children seemed too lenient. Since punishment must be sufficiently severe to deter persistent offenders, he would be interested in knowing how many persons prosecuted under article 149 of the Criminal Code had been sentenced, and how frequently judges had exercised their right to impose the maximum sentence. The State party should indicate whether the Criminal Code provided for the criminal responsibility of legal persons.

29. The CHAIRPERSON said that it was unclear whether prostitution was criminalized in Ukraine, and whether there was a minimum age of sexual consent. Although there was no minimum age of sexual consent in Ukraine, it seemed that persons under the age of 14 were always considered sexually immature. She wished to know who was responsible for making expert evaluations of the sexual maturity of minors between the ages of 14 and 17, and what the evaluation criteria were.

30. The State party should clarify the scope of extraterritorial jurisdiction in cases where the child victim of an act covered by the Optional Protocol was a Ukrainian national. She requested additional information about the sale of children for the purpose of slavery.

31. Ms. SMITH said that the State party should indicate when it intended to implement the measures for improving its adoption system.

32. The CHAIRPERSON asked why the Human Rights Commissioner of Ukraine had opposed ratification of the Hague Convention on Protection of Children and Cooperation in respect of Intercountry Adoption in 2006, and whether there had been any new developments since that time.

33. Mr. GRYTSENKO (Ukraine) said that, until 2006, financing for orphanages and children's boarding establishments had been divided among various State agencies. Currently, the functions relating to the care of orphans were carried out by a single agency. Budget and finance programmes had been drawn up to provide adequate resources for orphans placed in the care of foster families, and the number of such families had increased considerably. An experimental project carried out in Kyiv province had provided financing for children in foster families or under guardianship that allowed them to live at twice the subsistence level, which had made it possible to support and educate them.

34. Ms. VUCKOVIC-SAHOVIC asked whether the budget for foster care was used to provide families with regular financial support. She wished to know what proportion of the budget was earmarked for training and the promotion of foster care.

35. Ms. HERCZOG suggested that some of the budget for infant care homes could be reallocated in order to increase the number of foster families.

36. Mr. GRYTSENKO (Ukraine) said that payments amounting to twice the subsistence level were made directly to children, while foster carers received roughly a third of that amount for each child. All payments were made on a monthly basis. It was hoped that funds would be allocated to implement a similar system to compensate the higher number of children under guardianship, so that all children and their care families would eventually be financed according to a standard model. The State Institute for Family and Youth Affairs had established a training programme for potential foster carers and guardians.

37. The CHAIRPERSON asked whether the use of the term "inmates" to refer to children in care homes, including children with disabilities and HIV/AIDS, was a reflection of the institution's attitude towards them. She stressed the importance of using neutral, non-discriminatory language when referring to disabled children. She expressed concern that children in large boarding establishments were used for illegal activities, and she asked whether the delegation could provide guarantees that such establishments were monitored and that there was a complaints mechanism children could access without parental consent.

38. Mr. GRYTSENKO (Ukraine) said that the Government had recently put forward a proposal to reform children's boarding establishments. The overall objective was to increase the number of smaller, family-style care homes in an effort to deinstitutionalize the country as a whole. Training programmes and refresher courses had been developed for the staff of

institutions, including psychologists and therapists working with children with disabilities. Ukraine did not discriminate against disabled children and accepted children into care establishments regardless of their degree of disability.

39. Ms. YEMELYANOVA (Ukraine) said that, according to official statistics provided by the Ukrainian Ministry of Finance, for the first quarter of 2007, Ukraine's gross domestic product (GDP) had risen by 8.5 per cent.

40. The President of Ukraine was fully committed to fighting corruption, and the Government was considering a number of anti-corruption measures. In 2007, Ukraine had ratified the Council of Europe Civil Law Convention on Corruption, the Council of Europe Criminal Law Convention on Corruption and the United Nations Convention against Corruption. As a result, a new law on corruption was being drafted and draft amendments to the Criminal Code were being considered in Parliament. The scope of the Criminal Code would be extended to combat corruption. The Government was in the process of establishing criminal responsibility for State officials, private individuals and legal persons who engaged in corrupt activities.

41. Article 168 of the Criminal Code provided sanctions for violating the secrecy of adoption; violations included revealing information about a child's adoption to unauthorized individuals, the media or the school attended by the adopted child. However, article 168 did not prevent officials working in the relevant government agencies from monitoring adoptive families.

42. The offence of trafficking in children was punishable by a sentence that ranged from 5 to 12 years' imprisonment. The Constitution provided that international treaties, including the Optional Protocol, ratified by Ukraine were an integral part of Ukrainian domestic legislation and took precedence over domestic law in the event of a conflict.

43. Ms. VUCKOVIC-SAHOVIC said that, although she welcomed the enactment of a constitutional provision providing for the incorporation of the Optional Protocol into domestic law, such a provision was inadequate unless it was given effect in practice. She asked how many cases there had been in which judges or attorneys had directly invoked an international treaty.

44. Ms. YEMELYANOVA (Ukraine) said that, in 2002, a judges' academy had been set up to train judges in the application of international legal instruments. In 2006, a law had been adopted on public access to judicial rulings; it provided that the full text of rulings issued by the Supreme Court, the higher specialized courts and the appeal courts should be made available to the public through a computer database. Moreover, there were plans to secure additional financing in order to include local court rulings as well.

45. Although legislation on the administration of justice did not provide for the establishment of specialized juvenile courts, specialized judges for minors had been appointed. Separate chapters of the Code of Criminal Procedure dealt with the prosecution of criminal cases in which minors were offenders and in which they were victims. Provisions had been formulated concerning the interrogation of minors, the compulsory participation of defence counsel in cases involving minors and the protection of minors testifying in court. In 2003, a specialized unit had been set up as part of the criminal investigation police system to ensure the physical protection of witnesses or victims and the protection of their property.

46. Prostitution was no longer considered a criminal offence in Ukraine; rather, it was an administrative offence, responsibility for which started at age 16. However, persons who used physical or psychological coercion to involve minors in prostitution were subject to penalties. Article 155 of the Criminal Code prescribed sanctions for persons who engaged in sexual relations with a minor who had not reached sexual maturity. In prosecuting such cases, forensic specialists from the Ministry of Health were appointed to carry out examinations of minors to determine whether they had reached sexual maturity.

47. Mr. ZERMATTEN said that legislation on sex offences involving minors was confusing because it referred to three different age limits. He suggested that Ukrainian legislation should be amended to make it an offence to have sexual relations with a minor under a particular age. Legislation relating to other age limits should be abolished. He wished to know what was meant by the act of debauchery with respect to a minor. Article 149 of the Criminal Code, which dealt with the sale of persons, contained a condition relating to the extent to which the perpetrator had taken advantage of the victim's vulnerability. He suggested that the sale of children should be penalized unconditionally. He asked whether there were any plans to develop specialized children's courts in Ukraine.

48. The CHAIRPERSON asked what criteria were used to determine whether a minor had reached sexual maturity.

49. Ms. YEMELYANOVA (Ukraine) said that the purpose of forensic examinations to determine whether minors had reached sexual maturity was to establish whether or not a person who had had sexual relations with a minor was subject to criminal prosecution, since children reached sexual maturity at differing ages.

50. Mr. CITARELLA wished to know why certain foreigners who had adopted Ukrainian children had been stopped at the border before leaving the country because they did not have proper adoption papers.

51. Ms. YEMELYANOVA (Ukraine) said that the Ukrainian Government would consider reviewing its legislation with regard to establishing a uniform age of sexual consent. With regard to intercountry adoptions, she said that any person leaving the country with an adopted child but without the proper adoption papers was detained at the border until it was ascertained whether or not the child had been adopted legally. Although appeal courts had special chambers to handle cases involving minors, there were no plans to establish other juvenile chambers or juvenile courts. It was more important to ensure that judges received proper training in handling investigations and criminal proceedings involving minors than it was to set up separate juvenile courts.

52. Mr. FILALI asked whether judges who were assigned to minors dealt exclusively with minors' cases.

53. Ms. HERCZOG asked how many children were sentenced and held in detention centres known as educational institutions. She requested information on the quality of care that juvenile offenders received in such institutions. She wished to know whether judges who were assigned to minors' cases were instructed to take account of the similar backgrounds of juvenile offenders and juvenile victims when they sentenced such offenders.

54. Ms. YEMELYANOVA (Ukraine) said that judges assigned to minors' cases specialized in juvenile justice and dealt exclusively with such cases.

55. Mr. GRYTSENKO (Ukraine) said that cases involving minors covered all children up to the age of 18. Complete information on educational camps for minors would be sent to the Committee in due course.

56. Ms. YEMELYANOVA (Ukraine) said that Ukraine had ratified the European Convention on the Compensation of Victims of Violent Crimes. A bill on compensation for violent crimes, including trafficking in persons, had been approved by Parliament in its first reading. Under that bill, victims were entitled to compensation from the State for health damages. If enacted, that legislation would represent an improvement over the current provisions of the Code of Criminal Procedure, in which the payment of damages by the perpetrator depended on whether or not he or she had the ability to pay.

57. Ukrainian citizens who committed sex offences abroad were liable in Ukraine for such offences, except in cases where a Ukrainian citizen had already been tried and punished abroad for the same offence. Criminal responsibility in Ukraine for acts punishable in Ukraine but committed abroad did not depend on whether those acts were criminalized in the country in which they were committed.

58. Ms. VUCKOVIC-SAHOVIC (Country Rapporteur) said that Ukraine had taken steps to bring its legislation into line with international standards. She wished to know how many Ukrainian citizens had been prosecuted for the offences defined by the Optional Protocol. It was possible that thousands of illegal adoptions were taking place with impunity. She asked how long was the statute of limitations for offences covered by the Optional Protocol. She requested information on data collection, the proposed national plan of action to implement the Convention, and the measures taken to prevent offences against children.

59. Mr. GRYTSENKO (Ukraine) said that foreigners could adopt Ukrainian children only through official channels, and that foreign adoptive parents were granted permission to take a Ukrainian child out of the country only by a Ukrainian court. The proposed national plan of action to implement the Convention had been approved in its first reading by the upper house of the Ukrainian Parliament and was likely to be adopted following its second reading. National and international civil society organizations had participated in drafting the plan, and secondary school students had also been consulted. Ukraine was willing to work with all international organizations in order to facilitate its implementation of the Convention. Ukraine worked closely with UNICEF, which had inspired many of the country's programmes for children.

60. Mr. TURYANSKYI (Ukraine) said that the Human Rights Commissioner monitored the Supreme Council's implementation of fundamental freedoms and human rights. The protection of children's rights was one of the main activities of the Human Rights Commissioner, who was responsible for identifying cases of exploitation and child pornography, bringing the guilty parties to justice and preventing future violations of children's rights. The Human Rights Commissioner could take action following a complaint from a citizen, reports in the media, or on his own initiative.

61. The CHAIRPERSON asked whether there was an official responsible for children's issues in the Office of the Human Rights Commissioner. She enquired why the Human Rights Commissioner had persuaded the Government not to ratify the Hague Convention on Protection of Children and Cooperation in respect of Inter-country Adoption.

62. Mr. TURYSKYI (Ukraine) said that, of the approximately 100 people working in the Office of the Human Rights Commissioner, three or four were assigned to children's rights. The Office had a department dealing with questions of social protection, including the needs of single mothers and families with many children.

63. Ms. KORENEVA (Ukraine) said that Ukraine had not ratified the Hague Convention on Protection of Children and Cooperation in respect of Inter-country Adoption because it was concerned about integrating commercial organizations in the adoption process. Moreover, under Ukrainian law, adopted children retained Ukrainian nationality until they were 18 years old, while under the Hague Convention they would take the adoptive parents' nationality. In order to protect Ukrainian children adopted by foreigners, it was necessary to conclude bilateral agreements with the receiving countries, such as the United States of America, France, Italy, and Spain.

64. Mr. GRYTSSENKO (Ukraine) said that a bill on Ukraine's accession to the Hague Convention had recently been submitted to the Supreme Council, and he expected that Ukraine would accede to that Convention in the coming months.

65. Ms. LOGGINOVA (Ukraine) said that families wishing to foster a child had to take a training course and could attend follow-up courses. Handbooks had been published to provide them with advice. There were also plans to introduce training for prospective adoptive parents. In that regard, the Government had been working closely with international organizations, such as Holt International. Over the past two years, awareness-raising campaigns had been conducted to reduce the stigma attached to orphans. A recent survey indicated that about 20 per cent of Ukrainian families would be willing to adopt an orphan. The progress made in changing people's attitudes was reflected in the terminology used to refer to children with disabilities. There were plans to continue providing in-service training courses to social workers and other staff, particularly staff working with children with HIV/AIDS.

66. The CHAIRPERSON wished to know the budget allocation for implementing the Optional Protocol.

67. Ms. HERCZOG said that most children in institutional care were not orphans. She asked why there was so much Government spending on institutions, which were expensive and inefficient, rather than on assistance to foster carers.

68. Mr. PURAS commended Ukraine for adopting less offensive terminology to refer to children with disabilities. However, some questionable terms were still being used.

69. Mr. GRYTSSENKO (Ukraine) said that the Ministry for Family, Youth and Sport had adopted a five-year programme to address children's problems. Total funding of 3 million hryvnias had been allocated for the years 2005-2007. Under the proposed national plan of action 150,000 hryvnias would be earmarked to ensure the implementation of the Optional Protocol.

70. Ms. YEMELYANOVA (Ukraine) said that funds were available from the State budget for civil society organizations working on child-oriented projects.

71. The number of cases brought to trial under article 149 of the Criminal Code for trafficking in children had increased: 21 offences involving children in prostitution had been prosecuted in 2003, 8 in 2004, 12 in 2005 and 13 in 2006. Three offences involving children in the smuggling, production, marketing and dissemination of pornographic material had been prosecuted in 2003, six in 2004, seven in 2005 and six in 2006. The statute of limitations for those offences was 15 years.

72. Ms. VUCKOVIC-SAHOVIC (Country Rapporteur) said that she hoped that Ukraine would continue to cooperate with the Committee, UNICEF and NGOs. Under the Soviet system, children had been cared for but not consulted about their needs, and a child-oriented focus still seemed to be lacking. Ukraine had a huge task ahead of it and, owing to the nature of the offences covered by the Optional Protocol, it was responsible not only for the children in Ukraine but also for children in the region.

73. Mr. GRYTSENKO (Ukraine) thanked the Committee for its constructive comments. He looked forward to receiving the Committee's concluding observations and recommendations. At its next meeting with the Committee, Ukraine would endeavour to provide tangible results regarding its implementation of the Optional Protocol.

The meeting rose at 1 p.m.