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تعزيز وحماية جميع حقوق الإنسان، المدنية والسياسية والاقتصادية والاجتماعية والثقافية، بما في ذلك الحق في التنمية

تقرير مقدم من السيدة نجاة امجد معلا، المقررة الخاصة المعنية بمسألة بيع الأطفال وبغاء الأطفال واستغلال الأطفال في المواد الإباحية*

إضافة

البعثة التي قامت بها إلى لاتفيا**

* تأخر تقديم هذا التقرير.

** يُعمَّم الموجز بجميع اللغات الرسمية. أما التقرير نفسه المرفق بالموجز، فيُعمَّم باللغة التي قدم بها فقط.

موجز

قامت المقررة الخاصة المعنية بمسألة بيع الأطفال وبغاء الأطفال واستغلال الأطفال في المواد الإباحية بزيارة قطرية إلى لاتفيا في الفترة من ٢٥ إلى ٣١ تشرين الأول/أكتوبر ٢٠٠٨ اجتمعت خلالها بمسؤولين حكوميين وممثلين لمنظمات غير حكومية، وزارت المراكز العاملة في مجال حماية حقوق الطفل.

وكان الغرض من الزيارة هو الوقوف على حالات بيع الأطفال وبغاء الأطفال واستغلال الأطفال في المواد الإباحية في لاتفيا، فضلاً عن دراسة وتقييم نظام حماية الطفل بوجه عام، بما في ذلك، مدى تيسر تدابير محددة ترمي إلى حماية الأطفال ضحايا البيع أو الاستغلال الجنسي، مثل التدابير الرامية إلى إعادة تأهيلهم وإدماجهم اجتماعياً.

وتلاحظ المقررة الخاصة الجهود الكبيرة التي تُبذل في مجال حماية حقوق الطفل على المستويين التشريعي والسياسي. فعدد الحالات المبلغ عنها التي تتعلق ببغاء الأطفال والاتجار بالأطفال لأغراض جنسية قليل. ومع ذلك، ترى جميع الجهات الفاعلة التي اجتمعت بها المقررة الخاصة أن بغاء الأطفال في تصاعد، وبصورة أساسية عن طريق شبكة الإنترنت. وترى المقررة الخاصة أنه لا بد من توشي يقظة وتركيز الجهود على الوقاية، بما في ذلك، توفير التدريب المناسب والموارد البشرية والمالية الكافية لضمان اتخاذ تدابير فعالة لحماية الأطفال ومنع حالات العنف.

ويزداد عدد الأسر التي تعيش ظروفاً صعبة وتعجز عن حماية أطفالها. والصعوبات التي تواجهها بصورة رئيسية هي صعوبات مالية، أو مرتبطة بالإدمان على الكحول أو إساءة المعاملة. وإضافة إلى عامل انتشار السياحة، تؤدي سهولة وصول الأطفال إلى أساليب جديدة لتكنولوجيا المعلومات، وارتفاع الطلب على تجارة الجنس وإنشاء شبكات للاتجار متزايدة التنظيم، إلى تعرض الأطفال بصورة متزايدة لخطر الإيذاء والعنف والاستغلال. وتذكر المقررة الخاصة بأهمية اتباع نهج شامل إزاء الحقوق الأساسية للأطفال مما يمهد الطريق لتنفيذ سياسات اجتماعية تساند الأطفال والشباب والأسرة.

Annex

REPORT OF THE SPECIAL RAPPORTEUR ON THE SALE OF CHILDREN, CHILD PROSTITUTION AND CHILD PORNOGRAPHY, NAJAT M'JID MAALLA, ON HER MISSION TO LATVIA (25-31 October 2008)

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I. INTRODUCTION

1. The Special Rapporteur on the sale of children, child prostitution and child pornography, Najat M'jid Maalla, undertook a visit to Latvia from 25 to 31 October 2008 at the invitation of the Government of Latvia.

2. The Special Rapporteur warmly thanks the Government of Latvia for its hospitality and collaboration in facilitating meetings with officials from various branches of the Government. She welcomes the openness and frankness with which the authorities discussed issues concerning the sale of children, child prostitution, child pornography and the child protection system more generally. She also thanks the Government for its cooperation prior to, during and following the visit.

3. In Riga, the Special Rapporteur met with representatives of the Ministries of Foreign Affairs, of Welfare, of Education and Science, of the Interior (including the Office of Citizenship and Migration and the State Police), of Justice, and of Children, Family and Integration Affairs.¹ The Special Rapporteur also met with the State Inspectorate for the Protection of Children's Rights, with the Ombudsman and representatives of the Children's Rights Department of the Office of the Ombudsman and with members of the Parliamentary Subcommittee on Human Rights and Social Affairs, and visited the border control post with Belarus in Silenes, the Minor's Police Unit in Riga and the Ilģuciems Prison for women and girls in Riga. She also met with a senior official from the International Organization for Migration.

4. The Special Rapporteur also met with various non-governmental organizations dealing with violence against children and visited seven centres and institutions dealing with protection of the rights of the child in Riga, the Tukums region and in Daugavpils, and met with members of the local press (Latvian- and Russian-speaking).

5. In her report to the ninth session of the Human Rights Council, in September 2008 (A/HRC/9/21), the Special Rapporteur identified the following objectives of her mandate:

(a) A better understanding of the situation of the sale of children, child prostitution and child pornography and of contributing factors (socio-economic, cultural and environmental);

(b) Implementation of a comprehensive child protection system that ensures the best interest of the child and encompasses prevention and care as well as medical, psychological, social and legal support for child victims, rehabilitation, social reintegration of children and promotion of the rights of the child;

(c) Effective and concerted local, national, regional and international coordination and cooperation.

¹ As of 1 January 2009, the Ministry of Children and Family Affairs took over the Secretariat of the Special Assignments Minister for Social Integration, establishing the Ministry of Children, Family and Integration Affairs.

6. With this in mind, the objective of the visit was to explore the incidence of the sale of children, child prostitution and child pornography in Latvia and to seek information on issues such as online child pornography, illegal adoptions and possible cases of transfer or sale of the organs of children. The Special Rapporteur's objective was also to examine and assess the system of child protection more generally, including the availability of specific measures designed to protect child victims of sale or sexual exploitation, such as rehabilitation and social reintegration. To these ends, the Special Rapporteur met with a range of governmental and non-governmental authorities, which enabled her to obtain information and share her thoughts and ideas with representatives from various segments of the child protection system.

7. Throughout the visit, the Special Rapporteur consistently sought the views of interlocutors on what could be improved in the system, so that she could prepare conclusions and recommendations that were targeted and useful and that would ultimately be "owned" by the main stakeholders themselves.

8. At the close of the visit, the Special Rapporteur shared her preliminary thoughts and observations with the Government.

9. In preparation of her mission and her report, the Special Rapporteur consulted material from United Nations sources, such as the latest concluding observations of the Committee on the Rights of the Child (CRC/C/LVA/CO/2), Latvia's second periodic report to the Committee (CRC/C/83/Add.16) as well as Latvia's response to the questionnaire on the United Nations Study on Violence against Children. The Special Rapporteur also consulted various reports of non-governmental organizations. The Special Rapporteur thanks the Government of Latvia for its initiative and cooperation in providing information prior to, during and following the mission at the request of the Special Rapporteur.

10. The Special Rapporteur would like to stress at the outset, echoing the frequent statements of the Committee on the Rights of the Child, the importance of adopting a holistic approach to addressing the root causes, such as poverty and underdevelopment, that contribute to the vulnerability of children to sale, prostitution, pornography and sex tourism. This includes paying particular attention to the protection of children who are especially vulnerable to these practices, such as children in street situations, children from dysfunctioning families, children belonging to minorities, migrant children, children living in remote areas and those living in poverty.

II. GENERAL BACKGROUND/CONTEXT

A. History

11. Latvia regained its independence in 1991, at which time it re-established international diplomatic ties and joined the United Nations. Its capital, Riga, is the largest of the cities in the three Baltic States. Ethnically, the population of 2.2 million is approximately 59 per cent of Latvian origin and 27.7 per cent of Russian descent. It is a parliamentary republic, with a Head of State, Head of Government and unicameral legislature (the Saeima), and is composed of 109 local municipalities and 9 republican cities.

12. Latvia joined the European Union in 2004, at which time economic emigration increased considerably. It is a member of the Council of Baltic Sea States and held the presidency from 2007 to 2008. The Council has a Working Group for Cooperation on Children at Risk.

13. The recent global financial crisis was cited by all interlocutors as having had an impact on most aspects of Latvian society, including the availability of funding for social programmes and implementation of policies. In early 2009, Valdis Dombrovskis and his five-party coalition became the third Government in 15 months in Latvia. The Government of former Prime Minister Ivars Godmanis had resigned amid tensions triggered by the economic crisis. Unemployment reached 9.5 per cent in February 2009. The Special Rapporteur received reports that 10 per cent of each ministry's budget was recently cut.

B. International and regional legal framework

14. Latvia is a party to the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, the Convention on the Rights of the Child, the International Convention on the Elimination of All Forms of Racial Discrimination, the Convention on the Elimination of All Forms of Discrimination against Women, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict and the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography (hereinafter "the Optional Protocol"). It is not a party to the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women, the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, the International Convention for the Protection of All Persons from Enforced Disappearance, and has only signed the Convention on the Rights of Persons with Disabilities.

15. Latvia is party to the United Nations Convention on Transnational Organized Crime and the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the Convention (Palermo Protocol), acceded to ILO Convention No. 182 concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour in 2001 and ILO Convention No. 138 concerning the Minimum Age for Admission to Employment. Latvia has also ratified the 1993 Hague Convention on the Protection of Children and Cooperation in Respect of Intercountry Adoption.

16. At the regional level, Latvia ratified the European Convention on Human Rights, the Council of Europe Convention on Action against Trafficking in Human Beings in 2008 and the Council of Europe Convention on Cybercrime in 2007, but has not ratified the Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse. Latvia has also acceded to the Convention on the Establishment of the European Police Office (the Europol Convention).

17. Latvia adopted the Stockholm Declaration and Agenda for Action adopted at the World Congress against the Commercial Sexual Exploitation of Children in 1996 and reaffirmed its commitment at the Yokohama conference in 2001.

III. SITUATION ANALYSIS

A. Scope of the sale of children, child prostitution and child pornography

18. The Special Rapporteur observes that State agencies, parliamentarians and non-governmental organizations in Latvia alike are all deeply concerned with the phenomenon of child sexual exploitation. She notes a low number of cases reported by child protection authorities and the media of child victims of prostitution, or trafficking of children for purposes of sexual exploitation. She received no reports of illegal adoptions or of transfers of children's organs.

19. According to the Ministry of Justice, between 2005 and 2007, no persons were convicted of the offences of compelling a minor to engage in prostitution, compelling a juvenile to engage in prostitution, or unlawful act in handling adoptions.

20. Regarding the offence of trafficking with respect to a minor (section 154,¹ paragraphs 2 and 3 of the Criminal Law), the Government informed the Special Rapporteur that, according to the Latvian Court Information System, one person in 2005 and seven persons in 2007 were convicted under that section. However, the Ministry of Justice informed the Special Rapporteur that it does not possess any information on whether those persons were convicted for an offence with respect to a minor or a juvenile.

21. The Government informed the Special Rapporteur that in 2008, no persons were convicted of criminal offences committed against children falling within the terms of reference of the Special Rapporteur.

22. On the other hand, according to the Ministry of Justice, one person was convicted of procuring or using a juvenile in the production (manufacturing) of pornographic or erotic materials in 2005 and one in 2007 (no convictions in 2006 or 2008). In both instances, the penalty was a suspended sentence.

23. The Anti-Trafficking Unit of the State Police provided the Special Rapporteur with statistics on human trafficking, including of children (in the sense of section 154¹ of the Criminal Law²), and on violations of provisions regarding pornography (section 166 of the

² Paragraph 2 of section 154¹ stipulates that for a person who commits human trafficking with respect to a minor, the applicable sentence is deprivation of liberty for a term of not less than 5 years and not exceeding 12 years, with confiscation of property. "Human trafficking" is defined in section 154² as follows, and incorporates the definition contained in the Palermo Protocol:

"(1) Human trafficking is the recruitment, conveyance, transfer, concealment or reception of persons for the purpose of exploitation, committed by using violence or threats or by means of fraud, or by taking advantage of the dependence of the person of the offender or of his or her state of helplessness, or by the giving or obtaining of material benefits or benefits of another nature in order to procure the consent of such person, upon which the victim is dependent.

Criminal Law). The number of cases of trafficking of children for purposes of sexual exploitation between 2004 and 2008 is shown below:

2004	2005	2006	2007	2008
1 criminal procedure; 1 minor victim	0	3 criminal procedures; 3 minor victims	2 criminal cases; 5 minor victims	2 criminal cases; 4 minor victims

In the cases in 2007, there was no *corpus delicti*. The 2008 cases are ongoing.

24. On the other hand, there has been a sharp increase in cases of violations of provisions regarding pornography falling under section 166 (4) of the Criminal Law on the Violation of Provisions Regarding Importation, Production and Distribution of Pornographic or Erotic Materials. The Government provided information indicating that the sharp increase was due to the fact that in December 2007 section 166 was amended by the addition of a provision stipulating that if the acts provided for in paragraphs 3 and 4 are committed by an organized group, the applicable sentence is deprivation of liberty for a term of not less than 5 years and not exceeding 15 years, with confiscation of property and with police supervision for a term not exceeding three years. The number of such cases is shown below:

2004	2005	2006	2007	2008
1	3	6	4	48

25. Nevertheless, the Special Rapporteur observes that the low number of reported cases of the sale of children, child prostitution and child pornography does not necessarily reflect the actual scope of the phenomena. In this regard, the Special Rapporteur remarks that the system of standardized information-gathering and recording needs to be strengthened. She also observes that the low number of reported cases may also be a result of the small number of children who address their cases to the authorities, out of fear or shame. Similarly, the Special Rapporteur warns that a low rate of convictions does not necessarily reflect the scope or incidence of these acts.

“(2) The recruitment, conveyance, transfer, concealment or reception of minor persons for the purpose of exploitation shall be recognized as human trafficking also in such cases, if it is not connected with the utilization of any of the means referred to in Paragraph one of this Section.

“(3) Within the meaning of this Section, exploitation is the involvement of a person in prostitution or in other kinds of sexual exploitation, the compulsion of a person to perform activities or to provide services, the holding of a person in slavery or other similar forms thereof (debt slavery, serfdom or the compulsory transfer of a person into dependence upon another person), and the holding a person in servitude or the unlawful removal of a person’s tissues or organs.”

26. In fact, all interlocutors agreed that the phenomena of child pornography and child sex tourism were on the rise. Abusers, paedophiles and sex tourists are increasingly using various methods to attract children, mainly through the Internet. Further, some interlocutors warned of the need to be prudent regarding increasing risks of trafficking in children due to Latvia's accession to the Schengen area treaty.

27. Representatives of non-governmental organizations told of a troubling trend in the situation of children. While in the year 2000 problems were related to poverty and alcohol addiction, more recently the cases relate to children whose parents are unemployed; poverty has generally been on the rise. While many children still live at home, they spend a lot of their time in the streets, and the types of drugs consumed are stronger.

28. The Special Rapporteur observes on the basis of the information shared with her that an increasing number of families in difficulty are incapable of protecting their children. Difficulties are mainly financial, or alcohol- or abuse-related. As a result, children are increasingly vulnerable to the risk of abuse, violence and exploitation.

29. Regarding children being charged with or convicted of the aforementioned offences, in 2006, one minor was convicted of sending a person for sexual exploitation and of doing so as part of a group of persons, in violation of section 165¹ (2) of the Criminal Law. The minor was 16 years of age and was given a suspended sentence.

30. Between 2005 and 2008, no minors were convicted of the following offences: trafficking with respect to a minor; compelling a minor to engage in prostitution; compelling a juvenile to engage in prostitution; unlawful act in handling adoptions.

B. Legislation, institutional mechanisms, policies and programmes

1. Legislation

31. Latvia has undertaken numerous reforms to harmonize its domestic legislation with the international and regional instruments to which it is party. The Law on the Protection of the Rights of the Child defines a "child" as a person who has not attained 18 years of age. Article 51 provides that "for violence against a child, encouraging or forcing a child to take part in sexual activities, exploitation or involvement of a child in prostitution, the persons at fault shall be held liable as prescribed by law".

32. The Criminal Law of Latvia provides for the crime of compelling a minor (person under 18 years of age) to engage in prostitution, imposing a penalty of a prison term of up to 6 years; for compelling a juvenile (person under 14 years of age), the penalty is a term of 5 to 12 years (sect. 164 (4)).

33. The age of criminal liability in Latvia is 14 years, and the age of sexual consent is 16 years.

34. Section 154¹ (2) provides that for a person who commits human trafficking with respect to a minor, the applicable sentence is from 5 to 12 years of deprivation of liberty, with confiscation of property. If it is committed with respect to a juvenile, the sentence is from 10 to

15 years of prison, with confiscation of property, and with or without police supervision for a term not exceeding three years.

35. Section 165¹ of the Criminal Law prohibits sending a person for the purpose of sexual exploitation.

36. Article 50 of the Law on the Protection of the Rights of the Child prohibits the involvement of a child in the manufacture, distribution and showing of materials of an erotic or pornographic nature. Amendments to the Law on the Protection of the Rights of the Child also prohibit the presence of children, without the written permission of an educational institution during school hours and between 10 p.m. and 6 a.m. (if the local municipality has not determined stricter restrictions), in Internet cafés and other similar premises where payment for Internet and computer game services are provided.

37. Section 166 (3) of the Criminal Law provides that the procurement or use of minors in the production (manufacturing) of pornographic or erotic materials is punishable by a term of up to six years' imprisonment, or a fine not exceeding 80 times the minimum monthly wage. In the case of procuring or using juveniles, it is punishable by a term of 5 to 12 years (sect. 166 (4)).

38. The Special Rapporteur notes the definition of "child pornography" in article 1 (2) of the Law on the Restriction of Pornography, and is encouraged by the fact that the legal provisions also cover online child pornography. The Government informed the Special Rapporteur that electronic communications vendors have the duty to inform users regarding the possibility of installing a content filter, which restricts access to material containing erotica and pornography, and to ensure the installation of such filters if the subscriber and the vendor have mutually so agreed. The Special Rapporteur was also informed that the State Police cooperate with Internet service providers and telecommunications companies in order to facilitate control of online child pornography.

39. The Special Rapporteur also notes that while there is no explicit, specific definition of "sale of children", the actual offence is covered and regulated by several legal acts, in conformity with the Optional Protocol. The definition and prohibition of "sale of children" is covered under the following provisions of the Criminal Law: sections 154¹ and 154² on human trafficking, section 169¹ on unlawful acts in handling of adoptions, section 139 on unlawful removal of tissue and organs from a human being, as well as articles 15 and 51 (1) of the Law on the Protection of the Rights of the Child on protection from exploitation and protection from illegal activities, respectively.

40. The Special Rapporteur notes that Latvia's State party report further to the Optional Protocol was due on 22 March 2008 but has yet to be submitted. She strongly encourages Latvia to submit its report as soon as possible.

41. Article 9 (3) of the Optional Protocol deals with the obligations incumbent on States parties to take measures to ensure appropriate assistance to child victims, including their full social reintegration and their full physical and psychological recovery. Article 51 (2) of the Law on the Protection of the Rights of the Child provides that a child who is a victim of a criminal offence, exploitation, sexual abuse, violence, or any other unlawful, cruel or demeaning acts shall, in accordance with procedures prescribed by the Cabinet, be provided with emergency

assistance free of charge, in order that the child may regain physical and mental health and reintegrate into society. Such medical treatment and reintegration shall take place in an environment favourable to the health, self-esteem and honour of a child, carefully guarding the child's intimate secrets.

42. Article 51 (3) of the Law on the Protection of the Rights of the Child furthermore imposes the duty on every person to inform the police or another competent institution regarding violence or any other criminal offence directed against a child. For failing to inform, the persons at fault shall be held liable as prescribed by law.

43. The Law on the Protection of the Rights of the Child sets out provisions regarding special institutions and resources to be allocated by the State to provide medical treatment and rehabilitation free of charge to child victims of violence. It is prohibited for a child victim of violence or other illegal act to be left without psychological or other form of care. Expenses are covered by the State and every municipality is responsible for enforcing the rights of children who have suffered from violence (art. 52). The Law on Social Services and Social Assistance provides in its article 7 that the State shall ensure the social rehabilitation of victims of trafficking in human beings.

44. The Special Rapporteur also received information regarding penalties imposed against minors who have violated the regulations on prostitution. The Regulations of the Cabinet of Ministers on the restriction of prostitution prohibit those under 18 years of age from engaging in prostitution. According to article 174 of the Latvian Administrative Violations Code, the penalty for minors who violate the Regulations is a fine in an amount ranging from LVL 250 to LVL 500. Article 12 of the Latvian Administrative Violations Code provides for the application of compulsory measures of a correctional nature to minors between 14 and 18 (this is also provided for in section 66 of the Criminal Law); they may also be applied to minors between 11 and 14 who have committed a violation regarding which administrative liability has been provided for in the law. Section 65 of the Criminal Law outlines the rules for the application of punishment against minors.

45. In view of the prohibition imposed on children engaging in prostitution and the penalties for violating that prohibition, the Special Rapporteur strongly insists that child victims of the offences covered by the Optional Protocol should not, as such, be either criminalized or penalized. Whether a person under 18 years of age consents to such activities (pornography or prostitution) is irrelevant. As the age of sexual consent is 16, the Special Rapporteur recommends that Latvian law clearly stipulate that a child under 18 years of age is unable to consent to any form of sexual exploitation, including child pornography and child prostitution. Furthermore, all possible measures should be taken to avoid the stigmatization and social marginalization of such children. The Committee on the Rights of the Child has clearly and consistently maintained this position.

46. Regarding adoption, article 3 (5) of the Optional Protocol imposes the obligation on States parties to take all appropriate legal and administrative measures to ensure that all persons involved in the adoption of a child act in conformity with applicable international legal instruments. The Optional Protocol in fact provides that improperly inducing consent, as an intermediary, for the adoption of a child in violation of applicable international legal instruments on adoption constitutes sale of children. In this vein, the Special Rapporteur observes that

section 169 of the Criminal Law of Latvia addresses buyers, sellers and intermediaries of illegal acts of adoption. The penalty for giving consent to the adoption of a minor for the purpose of acquiring property is deprivation of liberty for up to two years, or community service, or a fine not exceeding 40 times the minimum monthly wage. If a person asks consent for adoption personally, or does so as an intermediary, through the use of violence, threats, by means of fraud, bribes or other illegal means, as well as for intermediation, that person faces deprivation of liberty for up to four years or community service, or a fine not exceeding 80 times the minimum monthly wage, with or without confiscation of property.

47. The Law on Social Services and Social Assistance stipulates that family care should be primarily pursued involving a foster family or guardian, and only in the case of failure of such measures may the child be referred to continuous social care and a social rehabilitation institution.

48. Most interlocutors were nevertheless of the view that despite positive efforts made in terms of legal reform, implementation of such laws and regulations is the main challenge for Latvia.

2. Institutional framework

49. A number of Government ministries are responsible for various aspects of the child protection system of Latvia. More particularly, the issues of the sale of children, child prostitution and child pornography, their underlying root causes and mechanisms to protect victims thereof are dealt with in various respects by several State or local institutions, including the Ministry for Children, Family and Integration Affairs (which supervises the State Inspectorate for the Protection of Children), the Ministry of Welfare, the Ministry of Education and Science, the State Police, the Minors' Police Unit and the Orphans' Courts. The Office of the Ombudsman (Children's Rights Department) also plays a vital role.

50. The Ministry for Children and Family Affairs (the predecessor to the Ministry for Children, Family and Integration Affairs) was established in 2004. It coordinates the cooperation between State and local government institutions within the scope of their competence in protecting the rights of the child and family rights issues. In cooperation with the Ministries of Education and Science, the Interior, Justice, Welfare, Health and others, the Ministry for Children, Family and Integration Affairs formulates draft long-term State policy in the field of the protection of the rights of the child. It prepares the relevant reports to be submitted to the Committee on the Rights of the Child. It also supervises and manages methodologically the activities of the Orphans' Courts. The Special Rapporteur notes that the Ministry organizes annual training for heads of Orphans' Courts. Furthermore, the Government provided the Special Rapporteur with statistics regarding the number of inspections conducted in Orphans' Courts, noting that there is a constant increase in the number of consultations provided by the Ministry. The Special Rapporteur also observes the decreasing number of decisions of Orphans' Courts that have been appealed. Nevertheless, the Special Rapporteur is concerned about information received from interlocutors about the lack of sufficiently clear guidelines and standards regarding the work of Orphans' Courts.

51. Some of the activities of the Ministry include providing financial support to municipalities for establishing centres and preschools; providing psychological consultation for

families free of charge; developing programmes on Internet safety; awareness-raising on how to prevent violence; provision of education for families; strengthening of training of police and social workers; and awareness-raising regarding the risks of pornography. One main activity undertaken is the dispatch of inspectors to Orphans' Courts, a function which used to be within the purview of the Ministry of Justice.

52. As a result of the recent financial crisis, 10 per cent of the Ministry's budget was cut, but the Special Rapporteur was assured of the Ministry's commitment to maintaining its programmes. For instance, while some inspectors are being regrouped by region, social services programmes such as benefits, alimony and social security were being maintained.

53. The State Inspectorate for Protection of Children's Rights was established in 2005 under the Ministry for Children, Family and Integration Affairs to supervise and monitor compliance with regulations in the field of child rights protection. In its supervisory and monitoring capacity, it carries out inspections (in some cases planned visits, in others following complaints) in orphanages, boarding schools, schools and preschools, swimming pools, Internet cafes, gambling halls, nightclubs, summer camps, prisons, psychiatric hospitals and other places, and makes recommendations if an infringement is detected.

54. The State Inspectorate undertakes consultations, provides methodological assistance, interviews children to obtain their views and carries out awareness-raising. Inspectors have received legal, social and pedagogical training for 40 hours and receive special training once a month. There are 18 inspectors working throughout 4 regions of Latvia, but the Special Rapporteur was informed that this number would be reduced in 2009 due to financial constraints. The representatives of the State Inspectorate expressed their wish that more funding be allocated to the institution, particularly to increase the number of inspectors and social workers. They also indicated their desire to be given the possibility to provide more advice on the way in which child protection policy is being implemented.

55. The Special Rapporteur notes that the State Inspectorate cooperates with other ministries in order to do its work effectively. For instance, the Ministry of Education and Science reported that it actively cooperates with the State Inspectorate.

56. The availability to victims of complaints procedure mechanisms that are accessible and child-friendly is one of the main ways to protect child victims and, in some instances, to prevent violations. In this regard, the Special Rapporteur welcomes the Children's Hotline (8006008) that is supported by the State Inspectorate. The Special Rapporteur was informed that the Hotline has been operational since 1 February 2006 and provides free of charge anonymous consultations for children in crisis situations and allows others as well to report violations of children's rights. The reports are immediately forwarded by employees of the Hotline to State inspectors or to other responsible authorities, including the police. According to information received, girls are 66.15 per cent of callers, and the age group 12-15 comprises 54.12 per cent of callers. The majority of issues raised relate to problems with friends or peers. Funding for the Children's Hotline is mainly provided by the State budget, and it is currently operational from 8 a.m. to 11 p.m. on working days, 8 a.m. to 10 p.m. on Saturdays. Funding for the operation of the Hotline on Sundays is provided by private organizations. Interlocutors appeared to hail the Hotline as a successful operation, but again identified the need for continued funding. The Ombudsman's Office also runs a free telephone hotline accessible to children.

57. The Special Rapporteur also met with the Ombudsman and with representatives of the Children's Rights Department of the Office of the Ombudsman. The Office of the Ombudsman replaced the Latvian National Human Rights Office in 2007. There is no specific Ombudsman for Children in Latvia. The Ombudsman informed the Special Rapporteur that while reported cases of child prostitution and child pornography are not widespread, the Office of the Ombudsman still reacts in individual cases. The Special Rapporteur encourages the Office of the Ombudsman to continue to act within its mandate to ensure that, even if cases are not widespread, action is taken.

58. The Ombudsman's Office has the mandate to initiate a verification procedure, and has the right to enter premises at any time and without a special permit to visit closed-type institutions, to move freely within the institutions, to visit all premises and to meet in private the persons held in closed-type institutions. More specifically, the Ombudsman may hear the opinion of a child without the presence of his or her parents, guardians, or employees of educational or childcare and instructional institutions, if the child so wishes.

59. The Special Rapporteur was also informed that the Office of the Ombudsman works in close cooperation with the State Inspectorate on elaborating legal provisions. The Office also refers certain complaints to the State Inspectorate because the latter can issue sanctions.

60. The Special Rapporteur visited and met with representatives of the Minors' Police Unit in Riga. The territory of Riga is subdivided into 15 sections. Fifty-seven police officers are assigned to the Minors' Unit. The police officers often pick up children who are "lost" in the streets, some between 14 and 16 years old, often from Afghanistan, Germany or Denmark. The Special Rapporteur was informed that, once children are in the Unit, they may remain there for anywhere from a few hours to five days. Efforts are made to place them in crisis centres as soon as possible, so that they may be cared for. However, there are reportedly insufficient places in existing crisis centres. If the child does not have any identity papers, the police check their existing database, or try to contact the parents; otherwise, they may contact immigration services. The police mentioned that in general, they believe what the child tells them. They cooperate with the Ministry of Foreign Affairs and consular offices in case of need and immigration/customs also have spaces to keep children if necessary.

61. Article 8 of the Optional Protocol deals with the protection of child victims of the practices prohibited under the Protocol throughout the entire criminal justice process. In particular, it requires that States parties, taking into account the principles of child participation and the best interests of the child, take measures which recognize both the special vulnerability of children who have been exposed to these crimes and their special needs as victims/witnesses. These measures may include the use of child-sensitive procedures, including interview rooms designed for children. The Special Rapporteur observed that there are special listening areas for children set aside in police stations. The Special Rapporteur also notes relevant provisions of the Criminal Procedure Law regarding special features of the examination of a minor (sect. 152) and examination of a minor with the intermediation of a psychologist (sect. 153).

62. The Ministry of Welfare, in particular the Social Affairs Department and the Social Rehabilitation Department, mostly provides financial support to the municipalities for social programmes. It organizes calls for tenders regarding particular activities and then selects the

municipal institution or non-governmental organization. Some interlocutors observed that this financial scheme and the granting of tenders was based more on which organization could provide the cheapest, rather than the most effective service.

63. In 2006, the Committee on the Rights of the Child expressed concern about the lack of coordination between the various institutional mechanisms and entities to monitor implementation of the Convention throughout Latvia, including between the national and local levels.³ During the visit, most interlocutors identified the need for improved coordination between ministries and for effective means of evaluating work and output.

3. Policies and programmes

64. The Special Rapporteur noted that governmental and non-governmental authorities alike have instituted a variety of programmes (in addition to those already mentioned above) designed to protect the rights of child victims of certain offences and in some cases to prevent violations, including child prostitution and child pornography.

65. The Special Rapporteur visited the Ilģuciems Prison for women and girls and met with the heads of the Social Rehabilitation Department of the detention centre. The Special Rapporteur was impressed by the care and methodology employed by the caretakers at this centre. She witnessed a child-rights approach to the care, rehabilitation and follow-up of the girls. Social rehabilitation programmes implemented include programmes to encourage forward-looking thinking, and programmes to prepare the girls for discharge and reintegration in society by acquiring and developing basic skills. The Special Rapporteur was informed of the limited funding available for psychological, drug and addiction counselling for the girls, as most such expertise is currently being provided on a voluntary basis. As such, all the support programmes were implemented in this centre by the employees themselves without any additional financing, and there is no additional financing allocated for any such programmes in 2009.

66. During the visit, the Special Rapporteur was also informed of projected plans to open another detention centre for women and girls and encourages the Government of Latvia to ensure that funds are made available for such a programme, ensuring that a child-rights approach is integral to all implemented programmes. The Special Rapporteur also encourages the Government of Latvia to continue to explore alternatives to deprivation of liberty for children, including probation, mediation, community service or suspended sentences. In this regard, the Government provided information regarding a Concept on Policy of Criminal Penalties, adopted by the Cabinet of Ministers on 9 January 2009, which aims at applying alternative penalties to deprivation of liberty. The Special Rapporteur encourages the Government to continue such initiatives, all the while ensuring that a child rights-based approach is integrated in all cases where such policies are targeted at children.

67. The Special Rapporteur received information from the Ministry for Children and Family Affairs regarding efforts undertaken to decrease the number of children in childcare institutions and, overall, to decrease the number of institutions. She was informed of promising policies undertaken to promote adoption and foster care, in particular favouring national over foreign

³ CRC/C/LVA/CO/2, para. 10.

adoptions since 2004. The number of foreign adoptions used to be three to four times more than national adoptions, whereas today, the number of national adoptions is almost double the number of foreign adoptions. The Government reported that at 31 December 2008, 1,351 adoptable children were registered in the database and 479 of them were already living in a family, leaving 872 (64.5 per cent) for whom adoptive families had to be found. In 2008, 73 children were taken into pre-adoption care in national adopters' families, which was 15 more than in 2007. Of the remaining adoptable children, the Government reported that 484 of them had a disability or serious health problem. The Special Rapporteur encourages the Government to pursue measures to encourage the adoption of children in these two categories, including psychological and financial support to adoptive families, medical and psychological follow-up and support of those children, as well as awareness-raising campaigns. In 2008, 83 foreign adopters were granted permission to adopt children from Latvia, 31 less than in 2007. The Minister reported that as of 2003, several legislative acts were passed in implementation of the 1993 Hague Convention on the Protection of Children and Cooperation in Respect of Intercountry Adoption. The Minister added that procedures binding Orphans' Courts' decisions regarding adoptions are now more clearly prescribed.

68. The Special Rapporteur recommends that the resources available, both financial and human, to the State Inspectorate for Children's Rights be strengthened and that the reaction time in following up on investigations be shortened.

69. Regarding trafficking, the Special Rapporteur was informed about the National Programme against Human Trafficking (2004-2008). The Government has also established an anti-trafficking working group that includes representation from Government and NGOs involved in anti-trafficking efforts. This working group developed programmes to increase public awareness of trafficking and to provide assistance to victims. The members include the Ministry of Welfare, the Ministry of Education and Science, the Ministry of Family and Children's Affairs and the local police. The Special Rapporteur was informed of training seminars run by the Ministry of Education and Science for educators on how to recognize cases of trafficking or abuse, and on how to warn students of such dangers.

70. The Office of the Ombudsman organizes training courses and awareness-raising seminars for the individuals who sit on Orphans' Courts. The Ombudsman admitted that often authorities such as the police are not sufficiently experienced or trained in detecting child pornography, and would require human rights training in general. This concern was echoed by officials at the Ministry of Justice.

71. One concern is that while there are awareness-raising initiatives about the rights of the child, such programmes are often not targeted at the children themselves, thereby potentially decreasing their impact. Article 9 (2) of the Optional Protocol provides that States parties shall encourage the participation of the community and, in particular, children and child victims in such information and education and training programmes, including at the international level.

72. The Special Rapporteur stresses the importance to be placed on the availability of recovery and rehabilitation services for child victims of the relevant offences, to ensure their full social reintegration and their full physical and psychological recovery, further to article 9, paragraph 3, of the Optional Protocol. Such measures should also be accessible and should reach all children throughout the country. Furthermore, so that services can be useful and effective, the

persons who work with victims must be equipped with the necessary legal and psychological training to be able to deal with the very delicate issues involved in their rehabilitation (article 8, paragraph 4, of the Optional Protocol). The Special Rapporteur notes that social, psychological, medical and legal assistance were made available to child victims of violence. Nevertheless, she expresses concern about reports that no outreach work is done on the streets.

73. Some non-governmental organizations integrate a multidisciplinary approach in their work with children, incorporating social work, psychological and art therapy, and legal counselling. In one case, however, an in-house treatment/shelter for children and mothers, with follow-up work, had to close its doors in January 2008 due to a lack of sufficient funding. Currently, municipalities are the main funders of rehabilitation and care centres. Interlocutors also stressed the need for separate funding for follow-up of children after they leave the centre. One clear example brought to the attention of the Special Rapporteur is the lack of proper follow-up, if there is any, of foster/adoptive families after placement/adoption. In this regard, the Government informed the Special Rapporteur of Regulation No. 111 on the Procedure of Adoption of the Cabinet of Ministers (11 March 2003) which sets a mandatory requirement for follow-up of adoptive families. Orphans' Courts are charged with follow-up of national adoptions, while foreign adoptions are supervised by the receiving country which, in turn, submits an assessment report to the Ministry of Children and Family Affairs. The follow-up period is two years after the adoption. The Special Rapporteur welcomes this information, but stresses the importance of effective implementation of these regulations, and that the Government should ensure the follow-up and monitoring of both adopted children and those children who leave centres but who are not adopted.

74. The Special Rapporteur expresses concern about information received regarding problems faced by certain crisis and rehabilitation centres, mostly related to the decrease in their funding and the limited number of places available. She received reports that several centres, or certain programmes of certain centres, have been closed down in recent years due to lack of funding. Such funding is heavily dependent on the State and the municipalities. The level of training of the relevant professionals was also raised as a concern by several interlocutors. The Special Rapporteur welcomes the information received from the Government regarding legal acts concerning the training of professionals, including State inspectors for the protection of the rights of the child, State and municipal police officials working with children's files, heads of Orphans' Courts, managers of educational institutions and those of childcare institutions, judges and public prosecutors.⁴ Nevertheless, in the light of information received from various sources, the Special Rapporteur encourages the Government of Latvia to ensure that such training is

⁴ Law on the Protection of the Rights of the Child; Cabinet Regulation No. 729 regarding Procedures for the Acquisition of Special Knowledge in the Field of Protection of the Rights of the Child and the Content of Such Knowledge; and Cabinet Regulation No. 984 regarding Procedures and the Content of Training provided for Head, Deputy Head and Members of Orphans' Courts.

consistently implemented and refreshed at regular intervals. The Special Rapporteur stresses the importance of a methodology with a child rights-based approach, taking into consideration the opinion of the child and the best interest of the child. Access to psychological counselling by parents and children alike, particularly in the regions, must be ensured.

75. She also notes the absence of clear, definable partnership agreements between the Government and non-governmental organizations regarding the implementation of initiatives and programmes. The Special Rapporteur was informed of certain cooperation projects between the Ministry of the Interior and NGOs in EU-funded projects; of the Nordic-Baltic pilot project to support women victims of trafficking for sexual exploitation; and of memorandums of understanding between the Ministry of the Interior and numerous NGOs to increase the quality of decisions. The Special Rapporteur supports such initiatives and encourages detailed partnership agreements to be undertaken between the Government and non-governmental organizations which recall the respective undertakings of the parties and contain detailed actions, expected outcomes, follow-up and evaluation modalities, as well as the allocated budget.

76. The Special Rapporteur observed that Latvia has undertaken various initiatives in an effort to prevent violations of the rights of the child. For instance, she notes awareness-raising and information campaigns on the rights of the child, drug addiction, trafficking in human beings, violence and online child pornography. Police inspectors from the Minors' Unit organize trips to schools to discuss prevention of violence and trafficking. The Special Rapporteur recommends that such programmes be continued in the longer term. They should be targeted not only at children but also at parents and the general public, in order to promote behaviour and attitudes that are based on respect for dignity, and physical and moral integrity.

77. In meetings with members of the local press, the Special Rapporteur was informed that journalists often felt they were given too large a responsibility when it came to these issues. They have played the role of investigators in recent cases of allegations of child pornography, while they insist that that is not their job. They also reported a lack of follow-up to some of the cases that are reported in the media. They reported receiving some training on the rights of the child. In this regard, the Special Rapporteur recommends that the Government ensure that the utmost care is taken to investigate and follow up on all cases of violence, abuse and other infringements of children's rights mentioned in the media.

C. Ongoing actions

78. The Special Rapporteur notes significant efforts made to put into place a Central Statistics Bureau for the purpose of centralizing all data, including data relating to the situation of children. Nevertheless, she expresses concern at the lack of a centralized system containing disaggregated data (by gender, age, type of violation and sentences imposed), particularly regarding children. While some ministries have such data, the Special Rapporteur recommends that they be centralized and shared with other ministries to ensure consistency and reliability of information.

79. The Ombudsman's Office also foresees the creation of an Internet site designed to raise awareness about the issue of violence against children. This initiative is intended to be coupled with an information campaign in schools on the same issue.

D. International assistance and cooperation

80. Latvia has been a member of Interpol since 1992. Latvia cooperates with Baltic and Eastern European Governments to combat regional organized crime groups that engage in trafficking. For instance, it has signed bilateral agreements with Belarus, Estonia, Lithuania, Kyrgyzstan, Poland, the Republic of Moldova, the Russian Federation, Ukraine and Uzbekistan to implement mutual legal assistance measures. The Special Rapporteur was informed by border control guards at Silenes that Latvia cooperates with other EU countries in maintaining a shared database of information on individuals and materials.

IV. CONCLUSIONS AND RECOMMENDATIONS

81. **The Special Rapporteur notes that significant efforts have been made at the legislative level in the area of protecting the rights of the child. Nevertheless, while the number of reported cases of child prostitution and trafficking of children for sexual purposes is low, all actors with whom the Special Rapporteur met were of the view that child pornography, mainly via the Internet, was on the rise. The Special Rapporteur is of the opinion that vigilance is required and that efforts should be directed towards prevention.**

82. **In fact, children are increasingly vulnerable and at risk of commercial sexual exploitation, given the proliferation of tourism, easy accessibility to new methods of information technology by children, increasing demand in the sex industry and the establishment of increasingly structured trafficking networks.**

83. **The Special Rapporteur recalls that preventing and combating these phenomena are directly linked to the capacity of a society to adopt a holistic approach to the fundamental rights of children, paving the way for the implementation of social policies which favour children, youth and the family and the elaboration of creative and innovative responses from both the public and the private sector.**

84. **In this regard, the Special Rapporteur makes the following recommendations to the Government of Latvia:**

(a) Child victims of the offences covered by the Optional Protocol should not, as such, be either criminalized or penalized and that all possible measures should be taken to avoid their stigmatization and social marginalization, consistent with various recommendations of the Committee on the Rights of the Child. Such action may decrease the level of shame/fear in children in reporting cases;

(b) Latvian law should clearly stipulate that a child under 18 years of age, irrespective of the legal age of consent to sexual activity, is unable to consent to any form of sexual exploitation, including child pornography and child prostitution;

(c) The participation of children should be strengthened on all issues concerning them, and their views should be given due weight;

(d) Adequate training should be provided to the relevant authorities for combating cybercrime, particularly online child pornography, in order to effectively detect violations;

(e) Internet service providers and telecommunications companies should continue to be involved in initiatives to combat and prevent online child pornography;

(f) While noting the existence of the Hotline for children, the Special Rapporteur recommends the strengthening of complaints mechanisms for children placed in alternative care institutions, or who are victims of violence or abuse, all the while ensuring their effectiveness and guaranteeing the protection, privacy and confidentiality of the children;

(g) Resources available, both financial and human, to the State Inspectorate for Children's Rights should be strengthened, and there should be prompt follow-up to investigations;

(h) The Government of Latvia should continue to ensure the provision of adequate financial and human resources to the Office of the Ombudsman to enable it to carry out its work, with full guarantees of independence and impartiality. Such activities include carrying out its decision to establish an Internet site designed to raise awareness about the issue of violence against children, and to undertake information campaigns in schools on the same issue;

(i) The Special Rapporteur encourages the Government of Latvia to ensure that sufficient funds are made available for all child protection programmes, ensuring that a child-rights approach is integral to all implemented programmes;

(j) The Special Rapporteur also encourages the Government of Latvia to continue to explore alternatives to deprivation of liberty for children, including probation, mediation, community service or suspended sentences;

(k) Non-governmental organizations should be strengthened with qualified human resources as well as sufficient funding, including through exploring opportunities for obtaining funding from the private sector;

(l) In cases where the Government tasks non-governmental organizations with implementing child protection programmes, detailed partnership agreements should be undertaken between the Government and non-governmental organizations which recall the respective undertakings of the parties, detailed actions, expected outcomes, follow-up and evaluation modalities, as well as the allocated budget;

(m) The Special Rapporteur encourages the Government of Latvia to consider engaging the private sector for fundraising and programmatic support on issues related to the protection of the rights of the child;

(n) Awareness-raising and prevention programmes should be continued in the longer term. They should be targeted not only at children but also at parents and the

general public, in order to promote behaviour and attitudes that are based on respect for dignity, and physical and moral integrity;

(o) Control and supervision of structures and programmes should be strengthened so that the quality of services provided as well as the sustainability of these projects are ensured. A child-rights approach must be integral to all implemented programmes;

(p) While noting information regarding the methods of work of Orphans' Courts and existing regulations, the Special Rapporteur encourages the Government to impose clearer guidelines and standards for the work of the Orphans' Courts, coupled with more efficient monitoring and follow-up in implementing regulations, in keeping with the principle of the best interests of the child;

(q) Standardized information-gathering should be strengthened, including by increasing efforts in terms of disaggregating data by sex, age, type of violation and measures taken, as well as harmonizing methods of gathering and processing data;

(r) Consistent with the concerns expressed by the Committee on the Rights of the Child in 2006, the Special Rapporteur recommends that Latvia strengthen and increase the efficiency and cooperation of the various institutional mechanisms and entities to monitor implementation of the Convention, including between the national and local levels;

(s) Relevant government departments, in cooperation with non-governmental organizations, should prepare annual reports on the situation of children for distribution and discussion;

(t) The media should be trained in ethical treatment of cases of the sale of children, child prostitution and child pornography, and in their role in awareness-raising on the issue;

(u) International and regional cooperation should be continued and strengthened where necessary in order to effectively combat and prevent child sex tourism and online child pornography;

(v) In the light of the current financial crisis, the Government of Latvia should make all possible efforts to ensure that financing of child protection policies and programmes is prioritized.
