

**48<sup>th</sup> session of the  
Committee on the Rights  
of the Child**

**Information Notes on  
Juvenile Justice related  
issues**

Defence for Children International  
June 2008



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## FOREWORD

The Committee on the Rights of the Child is the UN body responsible for monitoring the implementation, by States Parties, of the Convention on the Rights of the Child, as well as its two optional protocols, namely: the optional protocol on the involvement of children in armed conflict and the optional protocol on the sale of children, child prostitution and child pornography.

Every year, the Committee on the Rights of the Child holds three sessions in January, May-June and September.

States Parties are expected to submit reports to the Committee on the implementation of the Convention. The reporting cycle is as follows: 2 years after ratification, a State Party has to submit an initial report. After this initial report, additional reports are due every five years.

After reviewing the reports submitted by States Parties, the members of the Committee on the Rights of the Child address their concerns and recommendations in the form of concluding observations.

The 48th session was held in Geneva from 19 May to 6 June 2008. During the three-week session, the Committee on the Rights of the Child considered reports on how the Convention on the Rights of the Child is being implemented in each of the following States Parties: Bulgaria, Eritrea, Georgia, Serbia and Sierra Leone. Under the optional protocol on the sale of children, child prostitution and child pornography, members of the Committee reviewed the reports of the Republic of Korea and the United States of America. Under the optional protocol on the involvement of children in armed conflict, the Committee on the Rights of the Child considered the reports of the Philippines, the Republic of Korea and the United States of America.

As on previous occasions, the International Secretariat of Defence for Children International attended the session of the Committee on the Rights of the Child in order to follow the presentation of country reports from Bulgaria, Eritrea, Georgia, Serbia and Sierra Leone.

Defence for Children International is happy to present the following information notes on issues concerning juvenile justice.

Geneva, June 2008



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## INFORMATION NOTE

### Second periodic report of Bulgaria during the 48<sup>th</sup> session of the Committee on the Rights of the Child

#### Summary of juvenile justice related issues

**Ratification of the Convention on the Rights of the Child by Bulgaria:** 3 June 1991

**Previous report presented in:** January 1997 (14<sup>th</sup> session of the CRC).

#### 1. COUNTRY PROFILE

Bulgaria became a member of the European Union in January 2007. The World Bank classifies the country as an "upper-middle-income economy". Although Bulgaria has experienced rapid economic growth in recent years, the country is still the second poorest member state of the EU.

#### 2. KEY JUVENILE JUSTICE ISSUES IN BULGARIA.

##### 2.1. ISSUE BY ISSUE:

##### I) Legislation:

Current Situation/Achievements: The Bulgarian legislation in relation to juvenile justice focuses on social rather than penal measures. A reform of the legal framework for the protection of children and adolescents has been initiated. Juvenile Justice is now regulated and implemented through several laws, acts and actions plans. Among these, the Juvenile Delinquency Act creates a new protection system for the basic rights of children and adolescents.

Challenges: The review of the Bulgarian legislation shows several gaps. Decision-making bodies like courts, investigation or prosecution services are not specialized in juvenile justice. Although a certain progress was noted, Bulgaria should now evaluate the impact of its legal framework. More systematic data are also necessary.

##### II) Minimum age of criminal responsibility (MACR):

Current Situation/Achievements: The Penal Code sets the minimum age of criminal responsibility at 14. Adolescents between 14 and 18 can be subject to criminal justice only if they are able to understand the nature and the significance of their acts and to govern them.

Challenges: As noted by a member of the Committee, the situation of children between 8 and 14 remains uncertain and confused. Educational measures don't give the same guarantees as penal ones.



### **III) Number of children and length of detention:**

Current Situation/Achievements: The Bulgarian delegation declared that no children are being detained in Bulgaria today.

Challenges: The Committee outlined deficiencies on data. The delegation replied that data collection is not permitted for child protection reasons.

### **IV) Trial conditions:**

Current Situation/Achievements: The Legal Aid Act that came into force in 2006 indicates that children are entitled to free legal aid and to appeal in all proceedings affecting their rights or interests. According to the amendments of the Juvenile Delinquency Act, in hearing correctional cases, rights and legal interests of minors and juveniles have to be protected by their trusted representative or a lawyer.

Challenges: The Committee stated that more guarantees for children are required.

### **V) Pre-trial detention:**

#### Current Situation/Achievements:

The Criminal Procedure Code regulates the conditions of pre-trial detention and the procedure applicable to children. Police authorities may detain children who have committed a crime. In case of detention, the child's parents or guardians are immediately informed. Children are entitled to legal defence as of the moment of their arrest. The term of their detention may not exceed 24 hours. Children can be only brought to the places of detention with a written order issued by the police. If the grounds for the detention have ceased to exist, police authorities must release the child.

Pre-trial measures can include the placement of the minor under the supervision of parents or guardians, of his/her correctional facility's administration, or of a member of the local Commission for Combating Antisocial Behaviour by Minors and Adolescents. These have to supervise the adolescent, monitor his/her behaviour and ensure his/her appearance before the investigating magistrate and the court.

Challenges: It was noted that the conditions of pre-trial detention are still not fully up to international standards, especially concerning the access to light and the living area. A special investigation custody facility for children should also be built.

### **VI) Detention**

#### Current Situation/Achievements:

The Criminal Procedure Code guarantees judicial control over the detention and the deprivation of liberty of a child. Life imprisonment is not applied to children (nor to adults).

Imprisonment or placement in a correctional boarding school are used as a last resort measure, for the shortest term possible and only from a minimum age. Detention is exceptional.



In case of detention of a child, the law explicitly provides for their separate placement from adults. According to the delegation, no children are currently detained with adults.

Children have the right to maintain contact with their family through correspondence and visits.

It is now possible to review the terms of the imposed penalty of deprivation of liberty. Early release is possible. Children themselves, however, may not initiate the review.

Challenges: There is an insufficient number of qualified staff.

### **VII) Alternative measures:**

Current Situation/Achievements: New amendments to the Penal Code entered into force in 2005 and enlarged the scope of envisaged penalties to children. They introduced probation measures as an alternative to imprisonment. A wide range of alternatives is possible.

Challenges:

Alternative measures in the Bulgarian legislation mainly consist in placing the children in institutions. Other options should be implemented.

Correctional schools are confronted with problems such as obsolete facilities or remote geographic location.

### **VIII) Re-adaptation / reinsertion of children:**

Current Situation/Achievements: The Action Plan for the implementation of the National Strategy for prevention and counteracting antisocial behaviour and juvenile delinquency envisages measures for social integration through professional training of juveniles and employment of minors who have been released from correctional facilities.

Challenges:

There is no specialized professional system to support the reintegration of children released from correctional or social educational boarding schools. Moreover, there is a lack of professionals to support the reintegration of children into society once released from correctional, social and educational boarding school.

No official data are available.

### **IX) Training of professionals:**

Challenges: There is an insufficient number of qualified professionals. Professionals need to be trained on the specific protection needs of children in conflict with the law, especially in order to avoid any abuse of power and mistreatment of inmates by the staff.



### X) Other relevant areas:

**Prevention:** A number of institutions that have been created to organise the prevention system and to counteract antisocial behaviour.

### 2.2. TRANSVERSAL PROBLEMS / OBSTACLES:

- **Violence:** allegations of degrading treatment and torture towards children when arrested by the police were transmitted to the Committee.
- The specific situation of **Roma children** is to be taken more into account by the Bulgarian government.

### 3. MAIN CONCLUSIONS AND RECOMMENDATIONS BY THE COMMITTEE :

- The Committee regrets that some of its previous recommendations have not been sufficiently addressed, including the recommendations regarding the administration of a juvenile justice system.
- **Legislation:** Some aspects of domestic legislation are not consistent with the principles and provisions of the Convention such as in the area of fair trial.
- The Committee recommends that the State party strengthen its efforts to provide adequate and systematic **training** on children's rights to professional groups working with and for children, such as law enforcement officials, judges, lawyers, social workers and others as required.
- **Inhuman and degrading treatment:** The Committee welcomes the existence of complaints and investigation mechanisms allowing children in institutions or detention to file complaints. However, the Committee is concerned at the numerous allegations of children being ill-treated and/or tortured and that data in that regard are not available and particularly on cases occurring in schools and police stations.

The Committee recommends that the State Party:

- (a) Expand and facilitate children's possibility to file complaints about ill-treatment in these institutions and ensure the prosecution of offences;
  - (b) Strengthen its efforts to eradicate all acts of degrading treatment and violation of children's dignity in schools, boarding schools, remand and detention centres;
  - (c) Enhance training for staff of these institutions in order to raise their awareness and to impress upon them the rights of the child which have to be strictly ensured also in these institutions.
- **Corporal punishment:** While noting that corporal punishment is unlawful in the penal system, alternative care settings, etc. the Committee is concerned that children are still victims of corporal punishment in all those settings.
  - **Administration of juvenile justice:** The Committee notes with appreciation the amendments to the Juvenile Delinquency Act, the introduction of measures regarding deprivation of liberty by courts and the adoption of the new Criminal Procedure Code in 2005.

However, the Committee is concerned:

- (a) That the State party has not established **specialized juvenile courts or chambers** within the existing settlements;





- (b) At the **definition of “anti-social behaviour”** of juveniles which contradicts international standards;
- (c) That despite the fact that the Juvenile Delinquency Act defines the **minimum legal age for criminal responsibility** at the age of fourteen, children at a very low age (eight years) are considered by measures of prevention and re-education fixed by article 13 of the Juvenile Delinquency Act and which may be decided by the local Commission, without adequate guarantees;
- (d) That the **deprivation of liberty** is not used as a means of last resort;
- (e) At the high percentage of children placed in **correctional-educational institutions**; and
- (f) At the **inadequate conditions** prevailing in prisons and detention centres, including overpopulation and poor living conditions.

The Committee recommends that the State party take prompt measures to fully bring the system of juvenile justice in line with the Convention, in particular article 37(b), article 40 and 39, as well as with other United Nations standards in the field of juvenile justice.

In this regard, the Committee recommends that the State party:

- (a) Implement the Committee’s recommendations (CRC/C/15/Add.66) regarding juvenile justice;
- (b) Reform the Juvenile Delinquency Act and the Criminal Procedure Code with the view to withdraw the notion of anti-social behaviour;
- (c) Make a clear definition of the legal age of criminal responsibility in order to guarantee that children under the age of fourteen years are totally treated outside of the criminal justice system on the basis of social and protective measures;
- (d) Set up an adequate system of juvenile justice, including juvenile courts with specialized judges for children, throughout the country;
- (e) Use deprivation of liberty, including placement in correctional- educational institutions, as a means of last resort and, when used, regularly monitor and review it taking into account the best interests of the child;
- (f) Provide a set of alternative socio-educational measures to deprivation of liberty and a policy to effectively implement them;
- (g) Ensure that children deprived of their liberty remain in contact with the wider community, in particular with their families, as well as friends and other persons or representatives of reputable outside organisations, and are given the opportunity to visit their homes and families;
- (h) Focus on strategies to prevent crimes in order to support children at risk at an early stage;
- (i) Train judges and all law enforcement personnel who come into contact with children from the moment of arrest to the implementation of administrative or judicial decisions taken against them;
- (j) Ensure independent monitoring of detention conditions and access to effective complaints, investigation and enforcement mechanisms; and
- (k) Seek technical assistance from the Interagency Panel on Juvenile Justice which includes UNODC, UNICEF, OHCHR and NGOs.



**Sources:**

- United Nations Convention on the Rights of the Child
- Committee on the Rights of the Child. Concluding observations and recommendations to the Initial report of Bulgaria.
- United Nations Committee on the Rights of the Child. Initial report and 2<sup>nd</sup> periodic report of Bulgaria (State reports).
- Bulgaria NGOs' Working Group 'on Protection of Children Rights' (Alternative report)

**4. ANNEX:**

**4.1. CRC members present :**

Mrs. Aidoo, Ms. Al-Thani, Ms. Aluoch, Mr. Citarella, Mr. Filali, Ms. Herczog, Ms. Khattab, Mr. Kotrane, Mr. Krappmann, Mrs. Lee, Ms. Ortiz, Mr. Parfitt, Mr. Pollar, Mr. Puras, Mr. Siddiqui, Ms. Smith, Mrs. Vuckovic-Sahovic (country rapporteur), Mr. Zermatten

**4.2. Composition of country delegation :**

Mr. Andrey Tehov (Director of the Human Rights and International Humanitarian Organizations Directorate of the Ministry of Foreign Affairs and Head of the Bulgarian delegation), H. E. Mr Petko Draganov (Permanent Representative of the Republic of Bulgaria to the UN Office and other International Organisations in Geneva and Substitute of the Head of the Delegation), Mrs. Elena Atanassova (Director of the International cooperation, European Integration and Programs Directorate of the State Agency for Child Protection, Member of the Delegation), Mrs. Tsveta Antonova (Director of the Standards and Analysis Directorate of the State Agency for Child Protection, Member of the Delegation), Mrs. Irena Borissova (Senior expert in the International cooperation and European Integration Directorate of the Ministry of Justice, Member of the Delegation), Mr. Peter Petrov (Inspector at the General Directorate for the Fight against Crime, for Public Order and Prevention, Ministry of Internal Affairs, Member of the Delegation), Mrs. Elena Perchinska (State Expert at the Medical Activities Directorate of the Ministry of Health, Member of the Delegation), Mr. Plamen Slavov (Senior expert at the Legal Department of the Ministry of Education and Science, Member of the Delegation), Ms. Milena Yotova (Third Secretary at the Bulgarian Permanent Mission, Member of the Delegation), Ms. Evelina Ananieva (Attaché at the Bulgarian Permanent Mission, Member of the Delegation), Ms. Maria Nikolova (Intern at the Bulgarian Permanent Mission, Member of the Delegation)



## INFORMATION NOTE

### Second and third periodic report of Eritrea during the 48<sup>th</sup> session of the Committee on the Rights of the Child

#### Summary of juvenile justice related issues

**Ratification of the Convention on the Rights of the Child by Eritrea:** 20 August 1994

**Previous report presented in:** May 2003 (33<sup>rd</sup> session of the CRC)

## 1. COUNTRY PROFILE

The Eritrean-Ethiopian War (1998-2000) severely damaged Eritrea's economy. The two countries – two of the world's poorest countries – spent hundreds of millions of dollars and suffered the loss of tens of thousands of their citizens killed or wounded as a direct consequence of the conflict. Eritrea's economic future remains uncertain. The cessation of Ethiopian trade, which mainly used Eritrean ports before the war, leaves Eritrea with a large economic void to fill. Eritrea's economic future depends upon its ability to master fundamental social problems like illiteracy, and low skills.

## 2. KEY JUVENILE JUSTICE ISSUES IN ERITREA

### 2.1. ISSUE BY ISSUE:

#### I) Legislation:

Current Situation/Achievements: The Draft Penal Code of Eritrea (DPCE) takes into account the best interests of the child. Legislation regulates the use of alternative measures, rehabilitation and the minimum age of criminal responsibility. Regional committees were established in order to better synchronize and coordinate the administration of juvenile justice.

#### II) Minimum age of criminal responsibility:

Current Situation/Achievements: Eritrea noted the Committee's Recommendation in the Concluding Observations on the initial report to set a clear minimum age for criminal responsibility. The DPCE recognizes three categories of children and criminal liability. 1) Infants are children who have not reached the age of 12 and are not responsible for their actions. 2) "Young persons" are children between the ages of 12 and 15 inclusive. For this group, there are special measures upon conviction. They are not subject to ordinary penalties applicable to adults, nor shall they be kept in custody with adult offenders. 3) Young persons between 15 and 18 have the full liability of person's aged 18 and above. However, the Penal Code allows for a mitigation of sentence, and the death penalty can never be imposed.



Challenges: The Committee raised concerns about the fact that children aged 15 to 18 are treated like adults.

### **III) Number of children and length of detention:**

Current Situation/Achievements: Data on the number of children in detention were provided in the written answers.

Challenges: Length of pre-trial detention: the official is limit 22 hours, but, according to the report, this period can be prolonged to 1 or 2 months in order to protect the child from revenge. The CRC asked for clarifications but none were given.

### **IV) Trial conditions:**

Current Situation/Achievements: During the country review, questions were asked concerning any existence of specialized judges for juveniles despite the fact that there are no Juvenile Courts in Eritrea. The delegation answered that there are not enough cases to have Juvenile Judges or Courts, but that judges are trained in Juvenile Justice and know how to deal with young offenders. Moreover, all judges receive translations of the Child Rights Convention.

### **V) Pre-trial detention:**

Current Situation/Achievements: The State report says that sensitization programs for to the police contributed greatly to the enhancement of the existing pre-trial custody and detention centres.

### **VI) Detention :**

Current Situation/Achievements: In one of the five “zones” of the country there is now a detention centre for minors. However, in the 4 other “zones” children are kept in police stations. The Committee asked for information about the kind of assistance that children are provided with. The delegation replied that these police stations have all the necessary facilities and services and children are kept separated from adults. Child protection services monitor these places. However, this is only a temporary situation as new child detention centres are being built or will be built in the next years. Two of them will be functional soon.

Separation from adults: Separate chambers have been established.

### **VII) Alternative measures:**

Current Situation/Achievements:

According to the Transitional Civil Code of Eritrea (TCCE), a child offender over twelve could be subjected to probation service or community service. A child offender can also be placed in a suitable home especially established for the care of children such as group home care, foster home care and halfway houses.

The State report says that the Government has established a probation service, which attempts to provide counselling for children in conflict with the law in their community, in order to help them integrate into their neighbourhood and school.



### VIII) Re-adaptation / reinsertion of children:

Current Situation/Achievements: The Government has organised after-care services for juveniles who complete probation and correctional services. A child offender may be rehabilitated and reformed in the care of the parents or in a suitable home especially established for the care of children, or may be placed under the supervision of professionals qualified to provide medical, emotional or mental curative treatment and measures.

### IX) Training of professionals:

Current Situation/Achievements: During the country review, the delegation informed that 50 judges were trained on Juvenile Justice in the Netherlands.

### IX) Other relevant areas:

The Ministry of Labour and Human Welfare (MLHW) undertook a nationwide public awareness campaign on juvenile justice in 2004.

## 3. MAIN CONCLUSIONS AND RECOMMANDATIONS REGARDING JUVENILE JUSTICE:

- The Committee regrets the absence of a child friendly juvenile justice system in the country and reiterates its concern that children between 15 and 17 are tried as adults.
- The Committee is concerned that deprivation of liberty is not used as a measure of last resort and at the lack of separation of children from adults in pre-trial detention.
- The Committee urges the State party to ensure that juvenile justice standards are fully implemented, in particular articles 37 (b), 40 and 39 of the Convention, as well as other United Nations standards in the field of juvenile justice. In particular, the Committee recommends that the State party;
  - a. Develop a juvenile justice system, with **specialised juvenile courts**, which ensures that all children are tried as such. Children under 18 years should not be tried as adults;
  - b. Improve **training** programmes on relevant international standards for all professionals involved with the system of juvenile justice such as judges, police officers, defence lawyers and prosecutors;
  - c. Provide children, both victims and accused, with adequate **legal assistance** throughout the legal proceedings;
  - d. Be guided in this respect by the UN Guidelines on Justice in Matters involving Child Victims and Witnesses of Crime (ECOSOC Resolution No. 2005/20);
  - e. Ensure that detention and institutionalisation of child offenders is only resorted to as a last resort;
  - f. Seek technical assistance and other cooperation from the Interagency Panel on Juvenile Justice, which includes UNODC, UNICEF, OHCHR and NGOs.



**Sources:**

- United Nations Convention on the Rights of the Child.
- United Nations Committee on the Rights of the Child. Concluding observations and recommendations to the Initial report of Eritrea.
- United Nations Committee on the Rights of the Child. Initial report and 2<sup>nd</sup> /3<sup>rd</sup> periodic reports of Eritrea (State reports).
- Eritrea NGOs' Working Group 'on Protection of Children Rights' (Alternative report).

**4. ANNEX:**

**4.1. CRC members present**

Ms. Agnes Akosua AIDOO, Ms. Alya Ahmed Bin Saif AL-THANI, Ms. Joyce ALUOCH, Mr. Luigi CITARELLA, Mr. Kamel FILALI, Ms. Maria HERCZOG, Ms. Moushira KHATTAB (country rapporteur), Mr. Hatem KOTRANE, Mr. Lothar Friedrich KRAPPMAN (country rapporteur), Ms. Yanghee LEE, Ms. Maria Rosa ORTIZ, Mr. Daniel Brent PARFITT, Mr. Awich POLLAR, Mr. Dainius PURAS, Ms. Lucy SMITH, Ms. Nevena VUCKOVIC-SAHOVIC.

**4.2. Composition of country delegation**

H.E. Ms. Askalu Menkerlos (Minister of Labour and Human Welfare, Head of Delegation), Mr. Eden Fassil Obazghi (Director General, Legal Service, Ministry of Justice), Mr. Petros Hailemariam (Director General, Department of Research and Human Resource Development, Ministry of Education), Dr. Ghermai Tesfasellassie (Head, International Cooperation, Ministry of Health), Mr. Woldeyesus Elisa (Director General, Department of Labour, Ministry of Labour and Welfare), Mr. Ghebremedhin Mehari (Staff, Permanent Mission of Eritrea to the UN, Geneva)





## INFORMATION NOTE

### Third periodic report of Georgia during the 48<sup>th</sup> session of the Committee on the Rights of the Child

#### Summary of juvenile justice related issues

**Ratification of the Convention on the Rights of the Child by Georgia: 2 June 1994**

**Previous report presented in:** September 2003 (34<sup>th</sup> session of the CRC).

## 1. COUNTRY PROFILE

During the reporting period, Georgia continued to undertake building of the State based on democratic values and the rule of law, with the view to integrating into the international community and the European structures.

After the “Rose Revolution” in 2003, a radical change has taken place in the political life of Georgia. Protection of human rights became one of the key issues on the agenda of the new Government. Within the framework of ongoing full-scale reforms, significant legislative amendments have been adopted in order to ensure the consistency of Georgian legislation with the standards established by international human rights instruments. To that end, significant amendments were introduced in the Constitution of Georgia.

## 2. KEY JUVENILE JUSTICE ISSUES IN GEORGIA

### 2.1. ISSUE BY ISSUE:

#### I) Legislation:

Challenges: Despite the 2003 “Rose Revolution” that ushered in many needed reforms, there is still a lack of a systemic approach and lack of political will to assist children from different societal groups.

#### II) Minimum age of criminal responsibility:

Challenges: The current minimal age of criminal responsibility is 14. The “Zero Tolerance Policy” suggests a lowering of the minimal age of criminal responsibility from 14 to 12. Georgia argued this law will not come into effect (1 July 2008) as the necessary funding for its inaction is not currently available.

#### III) Number of children and length of detention:

Challenges: Currently, there are 176 minors deprived of liberty. The Committee cites that there is an increasing number of children entering the criminal justice system and receiving custodial measures and punishments.



#### **IV) Trial conditions:**

Challenges: Georgia does not have special courts dedicated to juvenile proceedings. Neither does it have judges or chambers specializing in juvenile justice.

#### **V) Pre-trial detention:**

##### Current Situation/Achievements:

Time limits on detention periods were reduced and brought into compliance with Article 18 of the Georgian Constitution, in particular the 9-month limit for pre-trial detention was reduced to 4 months and the 30-month limit for detention during trial was reduced to 12 months. These provisions took effect as of 1 January 2006. In addition, the law now provides that, in the course of conducting proceedings, the terms of detention should not exceed six months at the First Instance Court, four months at the Court of Appeal and two months at the Court of Cassation.

##### Challenges:

The Committee is concerned about the excessive length of pre-trial detention and the limited access to visitors during this period.

#### **VI) Detention**

Current Situation/Achievements: Georgia wishes to outsource food and insurance programs so as to increase competition and thus provide higher quality products in these areas.

In December 2005 public control commissions were set up in several penitentiary facilities in Georgia and the establishment of more such commissions is under way.

##### Challenges:

In October 2004 The Council of Public Supervision of the Penitentiary was established, with the aim of creating an efficient and fair system to exercise public control over the penitentiary and its activities. In December 2005 the supervision program was abolished due to inefficiency.

A juvenile facility designed for 108 female minors was built in Tbilisi, while at present it is overcrowded, holding 199 minors.

While welcoming the accession by Georgia in 2006 to the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT), and the elaboration of the Anti-Torture Action Plan, as well as the establishment of the Inter-agency Coordinating Council for fight against torture in June 2007, the Committee remains concerned about information indicating that children continue to be victims of arbitrary detentions, police brutality and ill-treatment in detention facilities.

Separation from adults: Until October pre-trial minor detainees were placed in special premises within adult penitentiary facilities. CRC member Mr. Luigi CITARELLA raised the concern that a few minors are still being held in prison with adults.





## **VII) Alternative measures:**

### Current Situation/Achievements:

The Georgian government states that it is actively promoting alternative measures of detention because it views detention as a last resort measure.

An increase in non-custodial measures has been cited.

Two diversion projects taking into account best practices from other former Soviet States (e.g. Estonia) will be launched.

### Challenges:

The Committee brings attention to the fact that there is a lack of community-based programs offering an alternative to prosecution and custody.

Abolishment, in November 2006, of the Commission of Minors and the Inspectorate of Minors, the only specialist unit dealing with prevention activities with regard to juveniles, and that apparently no appropriate mechanism has been put in its place.

The Committee cites the negative impact of the “Zero Tolerance Policy” where possibilities for alternative sentencing have been diminished.

## **VIII) Re-adaptation / reinsertion of children:**

### Current Situation/Achievements:

Rehabilitation programs are being encouraged, with focus on psycho-social therapy, sports and other forms of re-socialization programs.

Religion is to become an optional means of rehabilitating detained minors.

An agreement had been made between the Ministry of Education and the Ministry of Justice to launch secondary school/higher education programs for children in conflict with the law.

Challenges: The Committee is concerned by the absence of facilities for the physical and psychological recovery and social reintegration of juvenile offenders.

## **IX) Training of professionals:**

Current Situation/Achievements: Georgia is now concerned with providing judges and lawyers training in the field of juvenile justice in close cooperation with UNICEF.

Challenges: Lack of specialized juvenile courts, chambers and judges. Lack of a mandatory reporting mechanism for children facing violence by police, guards, and other professionals coming in contact with children in conflict with the law.

## **X) Other relevant areas:**

Situation/Achievements: Growth of the Georgian economy has made additional funding for juvenile justice a possibility.

Challenges: IDP children and children of other minorities are not being adequately integrated into Georgian society.



## 2.2. TRANSVERSAL PROBLEMS / OBSTACLES:

- **Poverty:** 11% of Georgian children live below the poverty line. Despite a strong and growing economy, the poverty rate is actually increasing.

## 3. MAIN CONCLUSIONS AND RECOMMENDATIONS BY THE COMMITTEE:

- The Committee suggests that the existing independent monitoring system for detention centres and juveniles be strengthened.
- The Committee calls for thorough investigations of all allegations of torture and ill-treatment by public officials and ensure that perpetrators are rapidly brought to justice and tried.
- The Committee asks Georgia to ensure the accessibility of the existing mechanism, with the involvement of civil society as equal partners in this process, to receive complaints from, or on behalf of, children of ill-treatment or abuse by members of the police
- Ensure that all professionals involved with the system of juvenile justice are trained on relevant international standards.
- Consider deprivation of liberty only as a measure of last resort and for the shortest possible period of time; protect the rights of children deprived of their liberty and monitor their conditions of detention; and ensure that children remain in regular contact with their families while in the juvenile justice system.
- Undertake all necessary measures to ensure the establishment of juvenile courts and the appointment of juvenile judges in all regions of the State party
- Take a holistic and preventive approach to addressing the problem of juvenile crime (e.g. addressing underlying social factors) advocated in the Convention with a view to supporting children at risk at an early stage, by using alternative measures to detention such as diversion, probation, counselling, community service or suspended sentences, wherever possible.
- Provide children with legal and other assistance at an early stage of the procedure and ensure that children in detention are provided with basic services (e.g. schooling and healthcare)
- Request further technical assistance in the area of juvenile justice and police training from the UN Interagency Panel on Juvenile Justice.
- The Committee strongly urges the State party to reinstate, as a matter of urgency, the minimum age of criminal responsibility at 14 years, taking into account the Committee's General Comment No. 10 (2007) on child rights in juvenile justice, in which States parties are urged not to lower their minimum age of criminal responsibility to the age of 12 (para. 33) on the grounds that a higher age, such as 14 and 16 years of age, contributes to the juvenile justice system which deals with children in conflict with the law without resorting to judicial proceedings, providing that the child's human rights and legal safeguards are fully respected, in accordance with the article 40(3)(b) of the Convention.
- The Committee urges the State party to take the necessary measures to establish an independent complaint mechanism that is easily accessible to and user-friendly for all children, to deal with complaints of violations of their rights and to provide remedies for such violations.



**Sources:**

- United Nations Convention on the Rights of the Child.
- Committee on the Rights of the Child. Concluding observations and recommendations to the Initial report of Georgia.
- Committee on the Rights of the Child. Initial report and 2<sup>nd</sup> /3<sup>rd</sup> periodic reports of Georgia.
- Georgia NGOs' Working Group 'on Protection of Children Rights', (Alternative report).

**4. ANNEX:**

**4.1. CRC members present :**

Ms. Agnes Akosua AIDOO, Ms. Alya Ahmed Bin Saif AL-THANI, Ms. Joyce ALUOCH, Mr. Luigi CITARELLA, Mr. Kamel FILALI, Ms. Maria HERCZOG, Ms. Moushira KHATTAB, Mr. Hatem KOTRANE, Mr. Lothar Friedrich KRAPPMAN, Ms. Yanghee LEE, Ms. Maria Rosa ORTIZ, Mr. Daniel Brent PARFITT, Mr. Kamal SIDDIQUI, Ms. Lucy SMITH, Ms. Nevena VUCKOVIC-SAHOVIC, Mr. Jean ZERMATTEN.

**4.2. Composition of country delegation :**

Mr. Archil GAGNIDZE (Head of Delegation, Deputy Minister of Education and Science), Mr. Nickoloz PRUIDZE (Deputy Minister of Labor, Health and Social Affairs of Georgia), Mr. Berika SHUKAKIDZE (Head of Analytical Department of the Ministry of Education and Science), Ms. Tamar GOLUBIANI (Head of Unit, Ministry of Education and Science), Mr. Alexander NALBANDOV (Head of the International Organizations Department at the Ministry of Foreign Affairs of Georgia), Ms. Rusudan MIKHELIDZE (Head of Analytical Unit of the Prosecution Service of Georgia), Mr. Levan MESKHORADZE (Head of the Unit for Coordination of International Relations of the Ministry of Justice of Georgia), Mr. Giorgi KAKACHIA (Head of Social Affairs Unit of the Ministry of Labor, Health and Social Affairs), Ms. Tamar TOMASHVILI (Legal Advisor, Permanent Mission of Georgia to the U.N. Office and Other International Organizations at Geneva), H.E. Giorgi GORGILADZE (Permanent Representative), Mr. Teimuraz BAKRADZE (Minister Plenipotentiary).



## INFORMATION NOTE

### Initial report of Serbia during the 48<sup>th</sup> session of the Committee on the Rights of the Child

#### Summary of juvenile justice related issues

**Ratification of the Convention on the Rights of the Child by Serbia:** 03 January 1991  
(ratified by former Yugoslavia)

**Previous report presented in:** -

## 1. COUNTRY PROFILE

The Republic of Serbia is the legal successor of the State Union of Serbia and Montenegro (SCG). The country is still facing politic, economic and social difficulties due to the long war it has experienced. The economic and social transition process is still ongoing and prevents the full implementation of the Convention.

On June 10, 1999, a resolution of the UN Security Council placed Kosovo under transitional UN administration (UNMIK). The Implementation and control of the Convention on the Rights of the Child is therefore strongly limited in the autonomous province of Kosovo and Metohija.

## 2. KEY JUVENILE JUSTICE ISSUES IN SERBIA

### 2.1. ISSUE BY ISSUE:

#### I) Legislation:

##### Current Situation/Achievements:

Juvenile Justice is regulated in the Law on Juvenile Perpetrators of Criminal Acts and on Criminal Legal Protection of Minors, which contains special provisions for young offenders, such as mandatory legal defence, exemptions and limited duration of proceedings and the imposition of alternative measures to juvenile prison.

Challenges: The CRC recommended to continue and strengthen the efforts to ensure the full implementation of juvenile justice standards, in particular articles 37, 40 and 39 of the Convention and other relevant international standards in this area.

#### II) Minimum age of criminal responsibility:

Current Situation/Achievements: The MACR is 14. Serbia differentiates “junior juveniles” (aged 14 to 16 at the time of committing the offence), a “senior juvenile” (16 to 18) and a “junior adult” (18 at the time of committing the offence and under 21 at the time of the trial).

Corrective measures, juvenile prison sentences and remedial measures, except for the prohibition of performance of profession, business activity or duty, may be



pronounced against juveniles for committed criminal acts. Only corrective measures may be pronounced against junior juveniles, while corrective measures and, exceptionally, a measure of juvenile prison sentence may be pronounced against senior juveniles

### **III) Number of children and length of detention:**

Current Situation/Achievements: Judicial statistical data and interpretation about adults and juveniles charged and sentenced for criminal acts in the period 1994-2005 was provided. It was mentioned that, according to the available data, the total number of criminal offences committed by juveniles and the share of juvenile crime in the total crime has been decreasing (and so is the overall crime rate in the country).

Challenges: statistical data are lacking.

### **IV) Trial conditions:**

Current Situation/Achievements: According to the rules of process legislation, adolescents are called to appear before the court exclusively through parents or the legal representative, unless this is not possible for reasons of urgency or other circumstances.

### **V) Pre-trial detention:**

Current Situation/Achievements: According to the law, any police custody lasting more than 48 can only be ordered by court authorities.

### **VI) Detention**

Current Situation/Achievements:

Detention in juvenile prisons is only applied as a last resort and for the shortest period possible.

Juvenile judges are now obliged to monitor the execution of corrective measures. Every six months, the competent guardianship authority as well as the management of the facility or institution in which the corrective measure is executed have to submit a report about the progress of execution of other corrective measures to the juvenile court and public prosecutor.

Measures have been taken to renew infrastructures in institutions for adolescents.

Challenges: The State party needs to undertake further measures to improve health and sanitary conditions in institutions.

### **Concerning Separation from adults:**

Current Situation/Achievements: in general, Juveniles are detained separately from adults.

Challenges: Exceptionally, the juvenile judge may order that the juvenile be detained together with an adult person who would not have a negative influence on him/her.



## VII) Alternative measures:

Current Situation/Achievements: The Law on Juvenile Delinquents emphasizes greater implementation of temporary measures of supervision and placement, which essentially represent an alternative to the detention measure.

Challenges: Judges rarely use alternatives to detention.

## VIII) Re-adaptation / reinsertion of children:

Current Situation/Achievements: Social reintegration is implemented through institutional measures, non-institutional measures and preventive programmes. Measures have been taken in order to improve the education conditions in institutions. Juveniles can obtain a diploma during incarceration period. These abilities are fully recognized outside and no mention of how or where the diploma was received figures on the paper.

## IX) Training of professionals:

Current Situation/Achievements:

Since 2006, judges or specialized panels are trained on family relations and on the rights of the child. Lay-judges are selected among expert persons who possess experience working with children.

Juvenile judges and judges on juvenile panels must be persons who have acquired specialized knowledge in the area of the rights of the child and juvenile delinquency. Specialization has also been set as a requirement for juvenile prosecutors, juvenile defence attorneys and police representatives.

Acquisition of specialized knowledge and advanced training are a concern of the Judicial Centre for Training and Advanced Training, in cooperation with line ministries, scientific institutions, expert and professional associations and NGOs. The Judicial Centre issues appropriate certificates of performed knowledge tests and advanced training.

Challenges: The Tribunals and the Supreme Court have not yet applied directly the CRC. These institutions are still very conservative, although their position and opinions are slowly moving towards the acceptance of international standards.

## 3. MAIN CONCLUSIONS AND RECOMMANDATIONS BY THE COMMITTEE:

- The CRC recommends that the State party continue and strengthen its efforts to ensure the full implementation of juvenile justice standards, in particular articles 37, 40 and 39 of the Convention and other relevant international standards in this area.
- The State party has to pay particular attention to the need to take measures to prevent and reduce the use of pre-trial and other forms of detention and to make this detention as short as possible, inter alia, by developing and implementing alternatives to detention such as community service orders, interventions of restorative justice, etc.
- The State party has to pay particular attention to the need to train police officers, prosecutors, judges, probation officers and others involved in the process of





dealing with children in conflict with the law, in order to, inter alia, make sure that these children are interrogated by trained police officers who notify parents immediately about their child's arrest and who encourage the presence of legal assistance for the child

- The State party has to pay particular attention to the need to promote, in accordance with article 40, paragraph 1, of the Convention, social reintegration of children in the society
- The State party has to strengthen preventive measures, such as supporting the role of families and communities in order to help eliminate the social conditions leading to problems such as delinquency, crime.
- The State party needs to enhance enforcement of existing legislation.
- The Committee recommends that the State party request further technical assistance in the area of juvenile justice and police training from the UN Interagency Panel on Juvenile Justice and others, including UNICEF.

#### **Sources:**

- United Nations Convention on the Rights of the Child
- Committee on the Rights of the Child. Concluding observations and recommendations to the Initial report of Serbia.
- Committee on the Rights of the Child. Initial report of Serbia (State report)

#### **4. ANNEX:**

##### **4.1. CRC members present:**

Ms. Agnes Akosua AIDOO, Ms. Alya Ahmed Bin Saif AL-THANI, Ms. Joyce ALUOCH, Mr. Luigi CITARELLA, Mr. Kamel FILALI, Ms. Maria HERCZOG, Ms. Moushira KHATTAB, Mr. Hatem KOTRANE, Mr. Lothar Friedrich KRAPPMANN, Ms. Yanghee LEE, Ms. Rosa Maria ORTIZ, Mr. David Brent PARFITT, Mr. Awich POLLAR, Mr. Dainius PURAS, Mr. Kamal SIDDIQUI, Ms. Lucy SMITH, Ms. Nevena VUCKOVIC-SAHOVIC, Mr. Jean ZERMATTEN.

##### **4.2. Composition of country delegation :**

Mr. Zoran Loncar (Minister of the Republic of Serbia, head of delegation), Ms. Vesna Fila (Assistant minister, Ministry of education, deputy head of delegation), Mr. Slobodan Vukcevic (Ambassador, Permanent Representative of the Republic of Serbia to the UN Office and other International Organizations at Geneva), Ms. Nevena Vitosevic-Celkic (State Secretary, Ministry of Religion), Dr. Elizabet Paunovic (Assistant Minister, Ministry of Youth and Sports), Mr. Nenad Vujic (Director of the Judicial Training Center), Ms. Gordana Mohorovic (Senior Adviser, Office of Human and Minority Rights), Ms. Sladjana Markovic (Senior Adviser, Ministry for Kosovo and Metohija), Mr. Vladimir Ceklic (Advisor, Ministry of Justice), Ms. Olivera Zecevic (Advisor, Ministry of Interior), Mr. Miodrag Rakic (Advisor, Office of Human and Minorities Rights), Mr. Pavle Aleksic (Advisor of the Commissioner for Refugees), Ms. Jasmina Ivanovic (Counsellor, Directorate for Human Rights and Environmental Issues, Ministry of Foreign Affairs), Ms. Marija Stajic (Third Secretary, Permanent Mission of the Republic of Serbia to UN Office and other international organizations at Geneva)



## INFORMATION NOTE

### Second periodic report of Sierra Leone during the 48<sup>th</sup> session of the Committee on the Rights of the Child

#### Summary of juvenile justice related issues

**Ratification of the Convention on the Rights of the Child by Sierra Leone:** 18 June 1990

**Previous report presented in:** January 2000 (23<sup>rd</sup> session of the CRC).

#### 1. COUNTRY PROFILE:

Although Sierra Leone was one of the very first countries to ratify the Convention, Parliament is yet to adopt the Convention so that it can exert full legal force within the country. Considering that the Government of Sierra Leone was grappling with the dual effects of poverty and a devastating civil war (1991-2002), a detailed report on the child rights situation had been delayed.

The World Population Prospect report estimates that about 20% of the country's population are persons between 15 and 24 year of age, and puts the median age at 17.9. Sierra Leone is currently ranked the second least developed country in the world and has one of the highest mortality rates worldwide.

#### 2. KEY JUVENILE JUSTICE ISSUES IN SIERRA LEONE:

##### 2.1. ISSUE BY ISSUE:

###### I) Legislation:

Current Situation/Achievements: Efforts at reviewing and upgrading law on juvenile justice were made. The Children and Young Persons Act from 1960 was reviewed and the Child Rights Bill has been adopted in June 2007.

Challenges: Lack of clarity regarding the status of capital punishment (capital punishment is yet to be removed from the Sierra Leone Constitution). Child laws in Sierra Leone should conform more to the international customary law.

###### II) Minimum age of criminal responsibility:

Current Situation/Achievement: The government states that the current minimum age is 10 years, but that with the Child Rights Bill it will increase to 16.

Challenges: According to the NGO-Coalition, the Child Rights Bill will only raise the age to 14. Linked to the minimum age is the problem of birth registration. Juvenile offenders who are not registered cannot prove their age. Reports from DCI-SL state that children are "at the mercy of the police" as the latter has a tendency to attribute ages to children with respect to the alleged offence.





Furthermore, there is no minimum accepted age of childhood at customary law. Each ethnic or tribal grouping has its own customary law and practice about the age.

### **III) Number of children and length of detention:**

Challenges: The government states that in 2003, 212 juveniles were in conflict with the law or found abandoned in Sierra Leone. A minority of them were in an institution for juvenile offenders. The rest were detained in police cells or prisons, discharged, kept on bail or probation, or were reunified with their families or guardians in line with their respective cases.

The NGO Coalition expresses concern that the data provided stems from the year 2003 and are therefore not representative of the current reality. For instance, DCI's national section in Sierra Leone has maintained a separate database and has noted considerably different figures, e.g. 482 cases of children in conflict with the law in 2003.

### **IV) Trial conditions:**

Current Situation/Achievements: DCI-Sierra Leone and other child's rights organisations were given access to juvenile court proceedings.

#### Challenges:

The situation is still vague regarding children aged 10-14. There are special family courts and child panels set aside for these children. Programs are also offered to them, including psycho-social counselling and family mediation.

CRC member Mr. Felali asked if the National Human Rights Commission had the right to ask information on files from the Justice Department. The delegation was not sure about it but thought that the Act of Parliament should have given the Commission this right.

The NGO-Coalition states that little to no legal aid exists for children in the juvenile justice system, especially for poor and vulnerable children.

### **V) Pre-trial detention:**

#### Challenges:

Children charged with serious crimes and who cannot afford bail are placed in remand homes.

The Law prohibits the incarceration of accused youths beyond the limit of 72 hours for minor offences, but in reality, this is not the case.

The time spent in the Juvenile Court is too long and is not in conformity with international standards.

### **VI) Detention**

#### Current Situation/Achievements:

Monitoring of remand homes and detention centres: Human rights agencies and



UNICEF are given access to remand homes. According to the NGO-Coalition, regular visits to and monitoring of the Remand Home and Approved School cannot occur regularly. Monitoring of detention centres is much more frequently performed by DCI's national section in Sierra Leone and Prison Watch.

The delegation said that prison facilities are "more like homes" and have recreational facilities; children are able to attend regular schools and visit their parents on weekends. Their friends may also visit them.

#### Challenges:

The state report admits that existing structures are ill-equipped – if at all existent.

Separation from adults: The NGO-Coalition reports that, even though laws state that children are not to be interned with adults, this is regularly the case.

#### **VII) Alternative measures:**

Challenge: Only one probation officer exists in each of the 12 districts, in addition to one probation officer for the city of Freetown.

#### **VIII) Re-adaptation / reinsertion of children:**

Challenge: Skills training has to be provided to detained children.

#### **IX) Training of professionals:**

Current Situation/Achievements: The Juvenile Justice Development program is working with "DEFEAT" proposal which provides training for prison guards and those in the judiciary.

### **2.2. TRANSVERSAL PROBLEMS / OBSTACLES:**

- Sierra Leone is under serious **monetary constraints**, still recovering from the war. Free and compulsory education is still not guaranteed to all children.
- **Customary Law** governs 80% of the population. How is it possible to disseminate children's rights? Is the Child Rights Bill accepted in the villages? There are customary courts which judge on the local level; how can national and international standards of Juvenile Justice be implemented?

### **3. MAIN CONCLUSIONS AND RECOMMANDATIONS BY THE COMMITTEE:**

- The Committee notes that the Child Rights Act contains extensive provisions on alternative approaches to the issue of juvenile justice.
- Positive: Measures taken by the State party to improve the situation of children in conflict with the law, including training programmes, awareness-raising and sensitization campaigns, monitoring of Remand and Bail Homes, and the establishment of a task force on juvenile justice to review policy and law and develop best practice for the general administration of juvenile justice.
- The State party does not provide legal aid for children within the justice system and there is only one juvenile court in the country.



- The country's Remand Homes and Approved School are understaffed and ill-equipped, with little or no security, poor learning facilities, little recreation and limited food supplies.
- Children suspected of crimes are either incarcerated with adult offenders in deplorable conditions or sent to overcrowded facilities in Freetown.
- The Committee urges the State party to ensure that juvenile justice standards are fully implemented, in particular in line with articles 37 (b), 40 and 39 of the Convention, as well as other United Nations standards in the field of juvenile justice.

In particular the Committee recommends that the State party, while taking into account the Committee's general comment No. 10 on the administration of juvenile justice (CRC/C/GC/10, 2007):

- (a) Take the necessary steps to ensure full implementation of the Child Rights Act, which raises the age of criminal responsibility to 14 years;
- b) Take all necessary measures, including adopting a permanent policy of alternative sanctions for juvenile offenders, to ensure that children are held in detention only as a last resort and for as short a time as possible and that detention sentences are reviewed periodically.

#### **Sources:**

- United Nations Convention on the Rights of the Child
- United Nations Committee on the Rights of the Child. Concluding observations and recommendations to the Initial report of Sierra Leone.
- United Nations Committee on the Rights of the Child. Initial report and 2<sup>nd</sup> periodic report of Sierra Leone (State reports).
- Sierra Leone NGOs' Working Group 'on Protection of Children Rights', (Alternative report)

#### **4. ANNEX:**

##### **4.1. CRC members present:**

Ms. Agnes Akosua AIDOO, Ms. Alya Ahmed Bin Saif AL-THANI, Ms. Joyce ALUOCH, Mr. Luigi CITARELLA, Mr. Kamel FILALI, Ms. Maria HERCZOG, Ms. Moushira KHATTAB, Mr. Hatem KOTRANE, Mr. Lothar Friedrich KRAPPMANN, Ms. Yanghee LEE, Ms. Rosa Maria ORTIZ, Mr. David Brent PARFITT, Mr. Awich POLLAR (co-rapporteur), Mr. Dainius PURAS, Mr. Kamal SIDDIQUI, Ms. Lucy SMITH (country rapporteur), Ms. Nevena VUCKOVIC-SAHOVIC, Mr. Jean ZERMATTEN.

##### **4.2. Composition of country delegation :**

Ms. Teresa A VAMBOI (Ministry of Social Welfare, Gender and Children's Affairs, head of the delegation), Ms. Hawa A MUSA (Ministry of Development and Planning).