

UNICEF BULGARIA

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Bulgaria

Submission by the UNICEF Bulgaria For the Office of the High Commissioner for Human Rights' Compilation Report

I. Scope

1. UNICEF Bulgaria's submission is focused primarily on selected issues encountered through our work and direct observation related to the promotion, protection and implementation of the rights of the child in Bulgaria
2. Bulgaria is a state-party to the UN Convention of the Rights of the Child and has ratified 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.
3. The state has neither ratified, nor signed the CRC Optional Protocol on a communications procedure.

Right

to life

4. In an amendment from 21 July 2014 in an Ordinance on endorsement of the medical standard “Obstetrics and Gynecology” the criteria for a definition of a live birth changed. Live birth is considered when the weight of the child is at least 800 grams and the birth is after the 26 gestation week. Below this range if the child hasn’t survived 3 days the birth is considered as an abortion. This amendment is not in conformity with WHO definition and may have various negative implications, including the denial of lifesaving medical care for the newborn immediately after birth, denial of the right of the parents to bury their child, etc.

Birth registration

5. Although not a frequent phenomenon, non-registration of children at birth could occur for families in closed marginalized groups, in rural areas, among families with low educational status when birth is given out of hospital or abroad. Single cases of children with no document and personal identification number have been observed in residential institutions for children without parental care when one or two of the parents were foreigners and contact with them could not be established. This fact has numerous negative implications and is putting impediments on the access of the child to health, social assistance and care, education, etc.

6. Further effort by responsible state institutions are necessary to guarantee that the obstacles to registering and accessing rights are removed.

Right to a family environment

De - institutionalization process

7. The process of deinstitutionalisation of child care is showing a sustainable progress. Data show that the reduction of the numbers of children in institutional care has accelerated and the number of children entering alternative community based family-type care or foster care has increased.¹

However, there is still a serious number of issues of concern with regard to the process of deinstitutionalisation and its effect to different groups of children.

8. Overall number of children in formal care has not decreased as not enough efforts are put into actual prevention of family separation and support to the families.

¹ Data provided by the State Agency for Child Protection show that the overall number of children in all types for formal care in 2013 is 8 697. The most significant decrease for the last three years (2011, 2012, 2013) is in the number of children in Homes for children deprived of parental care 1 492 in 2013 followed by the decrease of the numbers of children placed in Infant Homes - 1 183 children in 2013 (1 578 children in 2012; 1 820 children in 2011);

9. The closure of the Homes for Children and Young People with Intellectual Disabilities (DDMUI), while generally positive, still is not guaranteeing full enjoyment of rights of the children. For example, analysis of the closure of DDMUI Mogilino and the situation of children and young people who were placed in new type of services show that there is a definite improvement of their environment and living conditions as well as their physical recovery. However, a serious concern is the lack of the fulfilment of their rights to education, health and independent living as well as the effective legal representation of the children and young people. The unresolved problems with regard to guardianship, parental rights and legal representation leads to severe bottlenecks in their access to justice, rehabilitation, education, social services and their right to participate in the decision-making process in all matters affecting their life. Also, along with closing old residential care institutions the Government is creating new residential services (small group homes) to accommodate around 2000 children and young people with or without disabilities, without having in place the community-based services that can support the full integration of the children and young people with disabilities. This represents a risk of repeated segregation of children and young people with disabilities.

Access to health

10. The Bulgarian Constitution (art. 47) accords special protection to mothers and children. Despite the constitutional provisions that give all women access to free of charge obstetric care, pregnant women without health insurance are guaranteed only one medical checkup during pregnancy which may involve serious risks for the health of the mother and the child.

11. Practices in maternal hospitals often involve violation of the basic rights of women and children, and in particular the right to protection against violence and the right to private and family life. The routine separation of mothers from their babies in the maternal wards, as well as the constrained access of fathers to babies denies the right of mothers and fathers to spend time with their child, thereby violating their right to family and personal life (decision of the European Court of Human Rights). Treatment in hospitals in some cases can inflict serious psychological harm to women and can be considered as amounting to psychological and physical violence. This include for example verbal and emotional abuse and neglect on part of hospital staff and the performance of medical procedures without the consent of the women. In addition, participation of mothers and their partners in all decisions regarding the care for the mother and the baby before, during and after the delivery is not encouraged and actively supported by the existing practices.

12. Although the state is providing free health care to children there are many cases when vital medical equipment and medicaments are not covered by the health system and interventions are not possible. For example hydrocephalus shunts need to be paid additionally and thus surgery becomes impossible for many families.

13. There is a need the state to focus on systematic removal of obstacles so that legal right can be applied/exercised and mother and child health be improved, including through basic health care services for the most vulnerable children, in particular, for Roma children and children living in rural areas.

Access to education

14. An issue of concern in the area of education is the percentage of non-enrollment and school dropout before completion of primary school level among the youngest generations in the school-attending age. In total the number of children who never enrolled or dropped out before reaching 5th grade in the past five years is 7,000 children per annum on average. The number of drop outs is even higher in the secondary level. .

15. It was the 2011 Population and Housing Census that first used questionnaires to supply official statistics about individuals who never attended school. It turned out a number of over 80,000 countrywide and of over 10,000 children in school-attending age had never gone to school.

16. A significant number of children in school-attending age do not go to school because of health reasons – every sixth child in the 10-19 age bracket who did not enroll was a child with an acknowledge grade of disability.

17. “Hidden actual dropout” owing to fictitious school attendance, toleration and non-registration of regular absence is a problem that largely affects school education. The expert assessments of schoolmasters, teaching staff and municipal education experts indicate that the number of children who are affected by these phenomena is several fold the number of children who form the annual non-enrollment and dropout statistics.

18. The poverty suffered by families, the villages that are far away from the educational institutions, the bad housing conditions, the low level of education of the parents, the health problems, the bad command of the official language and prejudice and discriminative attitudes are the general factors that affect children in older age groups but also have an essential impact on the dropout from primary school and non-enrollment.

19. The limited access to preschool education in small towns and villages and for socially vulnerable groups where they cannot afford kindergarten attendance fees pushes the high percentage of children who do not receive the compulsory preschool training – one out of 5 children at the age of 5 and 11.5% of the 6-year old children in Bulgaria do not attend kindergarten or school.

Access to justice

Reform of the juvenile justice system

20. In the last years with the adoption of the Concept for Public Policy of Justice for Children (2011) and the Road Map for its implementation (2013) was made a certain progress in the

reform of the Juvenile Justice system. Nevertheless, the reform is moving ahead slowly with no measures to align the regulations of the Juvenile Justice Act (JJA) and the Child Protection Act (CPA) and some of the recommendations of the Committee on the Rights of the Child with regard to the administration of juvenile justice are still outstanding² which leads to several issues of concern.

21. First, children under the minimum age of criminal responsibility and children with status offences are not considered as “children at risk” under the CPA which leads to lack of access to support by the Child Protection Departments and refuses of referral to social services and support.

22. Second, there are still no changes in the primary and secondary legislation concerning the specialized educational institution (Social-Pedagogical Boarding Schools and Correctional Boarding Schools) where children are placed under the Juvenile Justice Act which leads to:

- Refusal of Child protection bodies to undertake protection measures under the Child Protection Act with regard to children, placed in closed correctional facilities due to educational measure under Juvenile Justice Act in cases of severe physical violence, sexual violence and neglect.
- Placement of pregnant girls in closed correctional facilities without provision of appropriate living conditions, safe environment and nutrition with no or difficult access to medical care. Separation of mother and new-born after birth (return of the mother in the closed correctional facility and placement of new-born in Infant Home) is a common practice.
- Placement of children with mental disabilities, with severe health issues like HIV/AIDS and others.
- Placement of children due to social reasons.

Children victims and witnesses of violence

23. Although some progress has been made in securing child friendly hearing facilities for children victims of violence and witnesses there are still serious problems with guaranteeing the rights of those children. The interrogations of children during the whole judicial process are several which further traumatizes them and at the same time does not provide reliable information for the justice aims. The procedure also envisages court hearing of the child victim and witness in the presence of the accused, and in the pre-trial phase children are often interrogated by officers with no specialized training.

² CRC/C/BGR/CO/2: 69. 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 articles 37(b), 40 and 39, as well as with other United Nations standards in the field of juvenile justice, including the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (the Beijing Rules), United Nations Guidelines for the Prevention of Juvenile Delinquency (the Riyadh Guidelines), United Nations Rules for the Protection of Juveniles Deprived of Their Liberty (the Havana Rules), the Vienna Guidelines for Action on Children in the Criminal Justice System and the recommendations of the Committee’s General comment No. 10 (CRC/C/GC/10) on children’s rights in juvenile justice. (<http://www2.ohchr.org/english/bodies/crc/docs/co/CRC.C.BGR.CO.2.pdf>)

24. Moreover, time limits for the investigation and final adjudication are vague and permits for very slow process. In a recent case of violence against children in a residential institution already more than a year after the signal was sent and evidenced by various state institutions, no decision of the prosecutor has been taken and such delays are officially permitted by the law. There is a need the State to impose special time limits for cases involving children.

25. In cases of domestic violence the Protection against Domestic Violence Act is not appropriately applied and very often instead of the perpetrators the victim is the one removed from the dwelling-house.

Protection from violence

26. Although the awareness of violence against children is growing there is a need to enforce the prohibition of all forms of corporal punishment and harmful traditional practices. Policies and measures to prevent and detect cases of child abuse, as well as to ensure accountability and the rehabilitation of child victims are not enough and efficient. Professionals from child protection, police, justice, educational, health and other systems have insufficient capacity to detect, report and react to cases of violence against children. Effectiveness of legal provisions and coordination mechanisms is decreased by the lack of appropriate services to support rehabilitation of children victims of violence.

Refugee children

27. The situation with children and families seeking refugee status or considered refugees is also a major issue of concern. Between 1 January and 31 July 2014, 4 452 asylum seekers applied for international protection in Bulgaria.³

28. On a positive side, conditions in the reception centers have improved significantly in comparison with the situation at the end of 2013. Asylum-seekers now have access to primary medical care services, interpretation services for the registration and asylum process, and a monthly assistance of 65 BGN (33 euros). However, despite the progress achieved, there are significant gaps in the Bulgarian asylum system in particular with regards to the lack of effective system for guardianship appointment for unaccompanied minors, access to formal education for children, lack of integration measures and services for psycho-social support.

29. Bulgaria does not have a working mechanism for appointment of guardians/representatives of the unaccompanied minors seeking asylum. Amendments of the Law on Asylum and Refugees addressing this issue have been proposed but not adopted yet. Further, there is no adequate solution for the accommodation of the unaccompanied minors and no mechanism for family tracing and reunification. There is a need of improved efforts in the care and protection of unaccompanied minors to ensure that they have access to their rights.

³ Official data from State Agency for Refugees - <http://www.aref.government.bg/?cat=21>;

30. Although access to formal education is a right guaranteed to all children in Bulgaria, asylum-seeking and refugee children have difficulties with school enrolment because of legal obstacles. Actions to eliminate barriers to education have been undertaken and amendments to two legislative acts have been proposed, however they have not been adopted yet.

31. In June 2014, the Council of Ministers adopted the Integration Program for Refugees but currently there is no financing allotted, which deprives refugees and their children of opportunities to acquire knowledge, skills, or progress in other areas of integration.

32. Recreational activities for children in the reception centers are sporadic, mainly organized by volunteers and language classes are organized by UNHCR. There are no services for psychological support.

Other issues

Forced eviction and demolition of homes of vulnerable Roma communities.

33. It is not a rare practise marginalised Roma population living in non-regulated setting to be evicted with no alternative dwelling provided. A recent example is from July 2014 when 55 illegal buildings were demolished in the Roma neighbourhood in the town of Stara Zagora. The buildings in the informal settlement were the only homes of Roma families and no resolution of their lack of alternative living premises was prepared before the eviction. The state has not put in place any mechanisms to deal with such situations that threaten the lives and well-being of children, whose families lived in these buildings. Similar to this recent case were the previous cases of forced evictions (e.g. Yambol), where no alternative solution was provided to families with children.

34. It is recommended that the state takes urgent actions to guarantee the rights of children and families affected by the eviction and demolition of non-regulated settlements. Furthermore, the state needs to develop and adopt policy measures securing adequate housing, sanitation and infrastructure available for all families including for low-income and large families and Roma communities.

II. Already accepted recommendations with regard to child rights which are still valid and need further efforts to be implemented:

1. To strengthen the efforts for combating domestic violence
2. To undertake a comprehensive review of the child protection system, social assistance and family policies to ensure coordinated and efficient services
3. To provide sufficient resources for the effective functioning of the child protection system, including through training of social workers, standards to limit the case load per social worker and their adequate remuneration

4. To take steps to ensure the provision of appropriate support for parents and families at risk to prevent the abandonment of children.
5. To pursue integration policy for the Roma population, guaranteeing access to basic health and social services, education, housing and employment
6. To strengthen the role of bodies and institutions such as the Ombudsman, the National Council for Cooperation on Ethnic and Demographic Issues, and the Commission for Protection against Discrimination in regards to monitoring and protection of child rights.
7. Continue pursuing appropriate policies and programmes to accommodate the needs of mentally disabled children
8. The state to coordinate the gathering of reliable statistics on the situation of children in Bulgaria.
9. Take all necessary measures to ensure that duration and detention conditions of people under 18 fully meet international human rights standards, in accordance with Bulgaria's international obligations
10. Continue its efforts on the issue of inclusion of children with disabilities in the general school system and reducing the number of schools for children with special educational needs