

## UKRAINE

### CRC A/51/41 (1996)

682. The Committee considered the initial report of Ukraine (CRC/C/8/Add.10/Rev.1) at its 239<sup>th</sup> to 242<sup>nd</sup> meetings (CRC/C/SR.239-242), on 2 and 3 November 1995, and adopted at its 259<sup>th</sup> meeting, on 17 November 1995, the following observations.

#### (a) Introduction

683. The Committee expresses its appreciation to the Government of Ukraine for the submission of its initial report and its openness and fruitful dialogue. The Committee is encouraged by the frank and cooperative tone of the discussion, in which the representatives of the State party indicated not only the policy and programme directions but also the difficulties encountered during implementation of the Convention on the Rights of the Child.

#### (b) Positive factors

684. The Committee takes note of the attention paid by the Government to the situation of children in the present period of political transition.

685. The Committee welcomes the establishment of mechanisms to deal with children's issues and the question of children's rights, in particular the Parliamentary Commission on Health Care, Mother and Child Welfare with its departments and regional divisions, and the Presidential Committee for Women's, Maternal and Children's Affairs.

686. The Committee notes with appreciation the important efforts by the Government in the field of law reform, especially the revision of the Constitution with a view to incorporating the rights of the child, and several laws such as the Family Code and the Penal Code, which aim to promote and protect children's rights.

687. The Committee also welcomes the adoption by the Government of a number of national programmes aiming at the effective implementation of children's rights in the country and the establishment of a voluntary fund to support children under the auspices of the Parliamentary Commission on Health Care, Mother and Child Welfare.

#### (c) Factors and difficulties impeding the implementation of the Convention

688. The Committee notes the difficulties facing Ukraine in the present period of political transition and in a climate of social change and deep economic crisis. The Committee also notes the problems relating to the transition economy and that the situation of many children has worsened as a consequence of growing poverty and increasing unemployment. The Committee recognizes that the State party is experiencing major difficulties in countering the negative consequences of the Chernobyl nuclear plant disaster, in particular on the environment and on the

physical and psychological health of the population, including children.

(d) Principal subjects of concern

689. The Committee expresses its concern as to full compatibility of national legislation, measures and programmes with the provisions and principles of the Convention, particularly with regard to the principles of non-discrimination (art. 2), including in relation to the different age of marriage for girls and boys, the best interests of the child (art. 3) and the right of the child to express his/her opinion in all decisions affecting him/her (art. 12). The Committee also notes that there is a discrepancy in the legislation between the age for completion of mandatory education, which is 15, and the minimum age for labour, which is 16.

690. The Committee is concerned at the insufficient budgetary allocation provided for the implementation of economic, social and cultural rights of children.

691. The Committee is concerned at the insufficient attention paid to the need for an efficient coordinating and monitoring mechanism that could provide a systematic and comprehensive compilation of data and indicators on all areas covered by the Convention and in relation to all groups of children, including children in single-parent families, children of divorced parents, abandoned children and institutionalized children. Such a mechanism would enable the Government to identify areas of concern and to help to define strategies to address them.

692. The Committee is worried by the high rate of abandonment of children, especially new-born babies, and the lack of a comprehensive strategy to assist vulnerable families. This situation can lead to illegal intercountry adoption or other forms of trafficking and sale of children. In this context the Committee is also concerned about the absence of any law prohibiting the sale and trafficking of children, and the fact that the right of the child to have his/her identity preserved is not guaranteed by law.

693. The Committee expresses its concern at the health status of children, particularly in the aftermath of the Chernobyl nuclear disaster, the increasing child mortality rate, the apparent priority given to curative rather than preventive health care, the low prevalence of breast-feeding, the high number of abortions, the insufficient health, education and services on family planning and the discrepancy between the urban and rural health systems.

694. The Committee is concerned about the absence in Ukraine of a programme involving social work. In particular, the Committee expresses its concern at the situation of the institutionalization, treatment and protection of handicapped children. Alternatives to institutionalization are not sufficiently taken into account; support services to parents who keep their handicapped child at home are inadequate.

695. The Committee regrets that appropriate measures have not yet been taken to effectively prevent and combat ill-treatment of children in schools or in institutions where children may be placed. The Committee is also preoccupied by the existence on a large scale of child abuse and violence within the family and the insufficient protection afforded by the existing legislation and

services in that regard. The problem of sexual exploitation of children also requires special attention.

696. The Committee is concerned by the absence of a national information and dissemination strategy regarding the Convention.

697. The present situation in the field of the administration of juvenile justice is a matter of concern to the Committee.

(e) Suggestions and recommendations

698. The Committee encourages the Government of Ukraine to pursue the revision of the legislative framework in order to reflect fully the Convention and to ensure the realization of children's rights in relation to all the children subject to the jurisdiction of Ukraine, and full compliance with the provisions and principles of the Convention, especially the principles of non-discrimination (art. 2) and the best interests of the child (art. 3), the right to life, survival and development (art. 6) and the right of the child to express his/her opinion in all decisions affecting him/her (art. 12). The Committee suggests that legislation concerning the age of mandatory education and that concerning the minimum age for employment be adjusted and that the age of marriage for girls and boys be the same.

699. The Committee recommends that the State party strengthen the coordination between the different governmental mechanisms involved in children's rights, both at the national and local levels, with a view to developing a comprehensive policy on children and ensuring an effective evaluation of the implementation of the Convention in the country. Closer cooperation with non-governmental organizations should be promoted.

700. The Committee recommends that the State party undertake to gather all the necessary information on the situation of children in the various areas covered by the Convention, including in relation to children belonging to the most vulnerable groups.

701. The Committee encourages the Government of Ukraine to pay particular attention to the full implementation of article 4 of the Convention and to ensure a judicious distribution of the resources at the central, regional and local levels. Budgetary allocations for the implementation of economic, social and cultural rights should be ensured during the period of transition to market economy to the maximum extent of available resources and in the light of the best interests of the child.

702. The Committee is of the opinion that systematic and continuous steps are required to make the provisions and principles of the Convention widely known and understood by adults and children alike, in the light of the Convention. The Convention should be made available in all the languages spoken by minorities in Ukraine and specific training should be provided to all professional groups working with children (judges, teachers, social workers, law enforcement officials, etc.). In the light of the United Nations Decade for Human Rights Education, attention should be given to incorporating the Convention in the school curriculum. The Committee

encourages the State party to give further consideration to the establishment of an ombudsperson for children, or of any equivalent permanent and independent complaint and monitoring mechanism. The participation of children themselves in the promotion of the rights of the child is of great importance, especially at the community level.

703. In the light of article 2 of the Convention, measures should be taken to prevent a rise in discriminatory attitudes or prejudices towards children belonging to minority groups, children living in rural areas, Roma children and children afflicted with HIV/AIDS.

704. The Committee would like to see a stronger emphasis placed on primary health care activities, especially in rural areas, which would include the development of educational programmes to cover such matters as family education, family planning, sex education and the benefits of breast-feeding.

705. The Committee encourages international support for measures to cope with the negative consequences of the Chernobyl nuclear disaster, in particular in the social, health and environmental areas.

706. The Committee considers that greater efforts should be made to develop awareness of the important role of the family and of the equal responsibilities of parents. Further steps should be taken to strengthen the system of assistance to both parents in the performance of their child-rearing responsibilities.

707. In view of the high rate of abandonment of children and of abortion, the Committee recommends that the State party adopt a strategy and policy to assist vulnerable families for the support of their children. The adequacy of the current social security system and of the family planning programmes should be evaluated. The Committee also recommends the training of social workers with the aim of mobilizing and strengthening communities.

708. The Committee encourages the State party to address the situation of children in institutions, with a view to envisaging and making available possible alternatives to institutional care through, for example, guidance and counselling, foster care and education and vocational training programmes. The Committee also recommends the establishment of effective monitoring mechanisms of the realization of the rights of the child placed in an institution.

709. With regard to the sale and trafficking of children, the Committee encourages the Government to clearly prohibit this illegal activity and to ensure that the right of the child to have his/her identity preserved is fully endorsed. The Committee also recommends that the State party consider the ratification of the Hague Convention on Protection of Children and Cooperation in respect of Intercountry Adoption.

710. The Committee further suggests that the clear prohibition of torture or other cruel, inhuman or degrading treatment or punishment, as well as a ban on corporal punishment in the family, be reflected in the national legislation. The Committee also suggests the development of procedures and mechanisms to monitor complaints of maltreatment and cruelty within or outside the family.

Special programmes should be set up to promote physical and psychological recovery and social reintegration of child victims of any form of neglect, abuse, exploitation, torture or ill-treatment in an environment that fosters the health, self-respect and dignity of the child, in the light of article 39 of the Convention.

711. The Committee recommends that the State party envisage the possibility of transferring the supervision of correctional labour colonies for juveniles from the Ministry of the Interior to the structure it may consider the most appropriate to ensure the promotion and protection of children's rights.

712. In the field of the administration of juvenile justice, the Committee recommends that the current legal reform take fully into account the Convention, in particular articles 37, 39 and 40, and that other relevant international standards in this field, such as the Beijing Rules, the Riyadh Guidelines and the United Nations Rules for the Protection of Juveniles Deprived of their Liberty be seen as a guide in this revision. Particular attention should be paid to the prevention of juvenile delinquency, the protection of the rights of children deprived of liberty, respect for fundamental rights and legal safeguards in all aspects of the juvenile justice system and the full independence and impartiality of the juvenile judges. Training programmes on the relevant international standards should be organized for all those professionals involved with the system of juvenile justice, in particular judges, law enforcement officials, correctional officers and social workers.

713. The Committee encourages the State party to disseminate widely the State party's report, summary records of the discussion of the report within the Committee and the concluding observations adopted by the Committee following its consideration of the report. The Committee would like to suggest that these documents be brought to the attention of Parliament and that the suggestions and recommendations for action contained therein be followed up. In this regard, the Committee suggests that cooperation with non-governmental organizations be pursued.

## **CRC CRC/C/121 (2002)**

294. The Committee considered the second periodic report of Ukraine (CRC/C/70/Add.11) at its 821st and 822nd meetings (see CRC/C/SR.821 and 822), held on 26 September 2002, and adopted, at its 833rd meeting (CRC/C/SR.833) held on 4 October 2002, the following concluding observations.

### **A. Introduction**

295. The Committee welcomes the submission of the State party's second periodic report which follows the guidelines for reporting and the written replies to its list of issues (CRC/C/Q/UKR/2). The Committee notes the constructive and informative dialogue held with the State party's delegation.

### **B. Follow-up measures undertaken and progress achieved by the State party**

296. The Committee welcomes the adoption of the new Constitution in June 1996, giving legal recognition to human rights and freedoms of the individual.

297. The Committee notes the enactment of new legislation, as mentioned in the written replies to the list of issues, such as: State Social Assistance for Low-Income Families Act (No. 1768-III, 1 June 2000); State Social Assistance for Persons Disabled from Childhood and Children with Disabilities Act (No. 2109-III, 16 November 2000); Act amending the Housing Code of the Ukrainian Soviet Socialist Republic Act (No. 1525-III, 12 March 2000); Child Welfare Act (No. 2402-III, 26 April 2001); Immigration Act (No. 2491-III, 7 June 2001); Refugees Act (No. 2557-III, 21 June 2001); Ukrainian Citizenship Act (No. 2235-III, 18 January 2001); Social Work with Children and Youth Act (No. 2558-III, 21 June 2001); Prevention of Domestic Violence Act (No. 2789-III, 15 November 2001) (with, inter alia, the ban on corporal punishment in schools, institutions and the home); Criminal Code (1 September 2001); Pre-school Education Act (11 June 2001); Extracurricular Education Act (22 June 2001); Act amending the State Assistance for Families with Children Act (1 January 2002); Family Code (10 January 2002).

298. The Committee welcomes the ratification of the Worst Forms of Child Labour Convention, 1999 (No. 182) of the International Labour Organization. The Committee further welcomes the reforms to the education system with the introduction of the Act "On education" in 1996 and the adoption of the Act "On vocational and technical training" in 1997, as well as the introduction of human rights into the school curricula, the annual reports on the status of children and programmes on national television and radio on children's rights.

### **C. Factors and difficulties impeding the implementation of the Convention**

299. The Committee notes that the State party continues to deal with many of the same serious economic and social problems as at the time of the Committee's consideration of its initial report, with the prolonged period of economic transition having led to a deterioration of living standards,

high unemployment rates and growing poverty, affecting families with children. Furthermore, the Committee notes the persistence of the negative consequences of the Chernobyl nuclear plant disaster and the harmful impact of the HIV/AIDS pandemic, affecting the population in general and the health and development of children in particular.

#### D. Principal subjects of concern, suggestions and recommendations

##### 1. General measures of implementation

###### Committee's previous recommendations

300. The Committee regrets that some of the concerns expressed and recommendations made in the concluding observations (CRC/C/15/Add.42, paras. 8, 17, 18, 20, 22, 25, 26, 29 and 30) adopted following its consideration of the State party's initial report (CRC/C/8/Add.10) have been insufficiently addressed. The Committee notes that the same concerns are expressed and recommendations made in the present document.

301. The Committee urges the State party to make every effort to address those recommendations contained in the concluding observations on the initial report that have not yet been fully implemented and to address the list of concerns contained in the present concluding observations.

###### Legislation and implementation

302. The Committee is concerned that the legislation on the Convention has been considered to be of a declaratory nature and thus has not been fully implemented. The Committee is also concerned that very little information was received on the legislation enacted after the reporting period, making it difficult for the Committee to assess whether it has a rights-based approach and complies with the Convention.

303. The Committee recommends that the State party review, amend and renew, where necessary, the legislation in order to ensure full compliance with the rights contained in the Convention and strengthen the mechanisms for the implementation of all legislation relevant to the Convention.

###### National plan of action and coordination

304. The Committee notes the information received on the following: the State youth policy, including the National Programme "Children of Ukraine"; the State Committee on Family and Youth Affairs, which coordinates the implementation of State policy on the rights of families, women and children at central and local levels of government, as well as cooperation between the central authorities, the United Nations Children's Fund (UNICEF) and other international organizations; the Inter-Departmental Commission for Child Welfare, coordinating measures to implement the Convention, the World Declaration on the Survival, Protection and Development of Children and the National Programme "Children of Ukraine".

305. The Committee remains concerned, however, that the State youth policy covers social

assistance, health care, education, alternative care and child protection and that it lacks a rights-based approach and does not encompass all rights enshrined in the Convention. The Committee is further concerned that there is a lack of clear coordination of efforts to implement all the rights in the Convention (ibid., para. 18).

306. The Committee recommends that the National Plan of Action should be rights-based and cover all the principles and provisions of the Convention.

307. The Committee recommends that the State party establish or appoint a single permanent body to coordinate the implementation of the Convention at the national and local levels, including by effectively coordinating activities between central and local authorities and cooperating with non-governmental organizations (NGOs) and other sectors of civil society.

#### Independent monitoring structures

308. While noting the appointment of the Commissioner for Human Rights of the Supreme Council of Ukraine, the Committee remains concerned that the mandate of the Commissioner does not provide for the regular monitoring and evaluation of progress in the implementation of the Convention. The Committee is further concerned that the office of the Commissioner does not include a mechanism to address individual complaints relating especially to violations of the rights guaranteed under the Convention.

309. The Committee encourages the State party to appoint, within its structure, either a commissioner specifically responsible for children's rights, or establish a specific section or division responsible for children's rights, that would be specifically responsible for addressing complaints made by children in a child-sensitive manner. In this respect, the Committee refers to its General Comment No. 2 on the role of national human rights institutions.

#### Resources for children

310. The Committee notes the priority accorded by the State party to health and education and the information that the budget has been increased for 2000-2001. However, the Committee remains concerned about the low level of resources in general for social services, health and education, which has a negative impact on the quality and accessibility of services, especially affecting families with children living in poverty. The Committee is also concerned that the "Children of Ukraine" programme is not accorded adequate funding. The Committee is further concerned that readjustment programmes may have a disproportionately negative affect on children if not appropriately addressed in the planning and budgeting of social services.

311. In light of articles 2, 3 and 6 of the Convention, the Committee recommends that the State party pay particular attention to the full implementation of article 4 of the Convention by:

(a) Further continuing to increase the budget for the implementation of the Convention and prioritizing budgetary allocations to ensure implementation of economic, social and cultural rights of children to the maximum extent of available resources, in particular to socially marginalized



groups, taking into account the decentralization of the provision of social services and of public finances;

(b) Strengthening its efforts to implement the poverty reduction strategy (2001);

(c) Ensuring sufficient resources for the full implementation of State programmes and policies for children, including “Children of Ukraine”;

(d) Identifying the amount and proportion of the State budget spent on children through public and private institutions or organizations in order to evaluate the impact of the expenditures and also, in view of the costs, the accessibility, the quality and the effectiveness of the services for children in the different sectors.

#### Data collection

312. The Committee regrets that its previous recommendation to the State party to develop an efficient coordination and monitoring mechanism that could provide a systematic and comprehensive compilation of data and indicators on all areas covered by the Convention and in relation to all groups of children, including children in single-parent families, children of divorced parents, abandoned children and institutionalized children, has not been fully followed up (ibid., para. 10).

313. The Committee recommends that the State party should, as a priority, systematically collect disaggregated data incorporating all the areas covered by the Convention and covering all children below the age of 18 years, with specific emphasis on those who are in need of special protection. The State party should also develop indicators to effectively monitor and evaluate progress achieved in the implementation of the Convention and assess the impact of policies that affect children. In this context, the Committee recommends that the State party seek technical assistance from UNICEF.

#### Training/dissemination of the Convention

314. The Committee welcomes the efforts undertaken by the State party to disseminate the Convention and to train professionals working with and for children, in line with its previous recommendation (ibid., para. 21). However, the Committee is of the opinion that the measures to create widespread awareness and understanding of the principles and provisions of the Convention need to be further strengthened and implemented in an ongoing, systematic manner.

315. The Committee recommends that the State party:

(a) Continue and strengthen its efforts to provide adequate and systematic training and/or sensitization on children’s rights to professional groups working with and for children, such as parliamentarians, judges, lawyers, law enforcement and health personnel, teachers, school administrators and others as required;

(b) Continue to develop more creative methods to promote the Convention, including through audio-visual aids, such as picture books and posters, in particular at local level, and through the media.

### Cooperation with NGOs

316. The Committee welcomes the improvement in relation between the Government and civil society with increased cooperation between the Government and NGOs. However, the Committee remains concerned that insufficient efforts have been made to involve civil society in the implementation of the Convention following a rights-based approach.

317. The Committee emphasizes the important role civil society plays as a partner in implementing the provisions of the Convention, including with respect to civil rights and freedoms, and reiterates its recommendations (ibid., para. 18) that the State party promote closer cooperation with NGOs and, in particular, to consider involving NGOs, especially rights-based ones, and other sectors of civil society working with and for children more systematically throughout all stages of the implementation of the Convention.

### 2. Definition of the child

318. The Committee is concerned that despite its previous recommendation (ibid., para. 17) there remain disparities in the minimum age of marriage for boys (18) and girls (17). It is also concerned that there is no clearly defined minimum legal age for sexual consent.

319. The Committee reiterates its previous recommendation that the State party rectify disparities in the age of marriage between boys and girls by raising the minimum age of marriage for girls to 18. It also recommends that the minimum legal age for medical advice and counselling without parental consent be lowered and a clear legal minimum age for sexual consent be established.

### 3. General principles

320. The Committee is concerned that the principles of non-discrimination, the best interests of the child, life, survival and development and the right to respect for the views of the child according to age and maturity are not fully reflected in the State party's legislation, policies and programmes at the national and local levels.

321. The Committee recommends that the State party:

(a) Appropriately integrate the general principles of the Convention, namely articles 2, 3, 6 and 12, in all relevant legislation concerning children;

(b) Apply them in all political, judicial and administrative decisions, as well as in projects, programmes and services which have an impact on all children;

(c) Apply these principles in planning and policy-making at every level, as well as in actions taken

by social and health welfare and educational institutions, courts of law and administrative authorities.

#### Non-discrimination

322. The Committee remains concerned that the principle of non-discrimination is not fully implemented for children of economically disadvantaged households, children living in rural areas, children in institutions, children with disabilities, Roma children and children affected with HIV/AIDS, especially regarding health care, social welfare and education.

323. The Committee recommends that the State party monitor the situation of children of economically disadvantaged households, children living in rural areas, children in institutions, children with disabilities, children belonging to national minorities such as Roma children, and children affected with HIV/AIDS. On the basis of the results of this monitoring, comprehensive proactive strategies containing specific and well-targeted actions aimed at eliminating all forms of discrimination, including in particular access to education and health care, should be elaborated.

324. The Committee reiterates its previous recommendation (*ibid.*, para. 22) that measures be taken to prevent a rise in discriminatory attitudes or prejudices, in particular against children belonging to the above-mentioned vulnerable groups.

325. The Committee requests that specific information be included in the next periodic report on the measures and programmes relevant to the Convention undertaken by the State party to follow up on the Durban Declaration and Programme of Action adopted at the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance, and taking account of the Committee's General Comment No. 1 on article 29, paragraph 1, of the Convention (aims of education).

#### Respect for the views of the child

326. The Committee welcomes the creation of the Child Parliament by the State party, but remains concerned that traditional attitudes towards children in society still limit respect for their views, within the family, schools and at the community level. The Committee is further concerned that children's opinions are insufficiently taken into consideration, in accordance with their age and maturity, in the context of judicial or administrative decisions, including in the context of child custody procedures and decisions concerning alternative care, such as foster or institutional care or other forms of alternative care.

327. The Committee recommends that the State party:

(a) Promote and facilitate, within the family and the school, as well as in judicial and administrative procedures, respect for the views of children and their participation in all matters affecting them, in accordance with article 12 of the Convention;

(b) Provide educational information to, among others, parents, teachers, government administration officials, the judiciary, children themselves and society at large on children's right

to participate and to have their views taken into account;

(c) The Committee recommends further that the State party undertake a regular review of the extent to which children's views are taken into consideration and of the impact this has on policy and programme implementation and on children themselves.

#### 4. Civil rights and freedoms

##### Torture and other cruel, inhuman or degrading treatment or punishment

328. The Committee is concerned that the definition of torture in the Criminal Code 2001 is not compatible with the definition of torture in the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, as it does not explicitly include acts of torture, including psychological torture, committed by State officials. The Criminal Code also fails to declare evidence extracted under torture inadmissible.

329. The Committee is also concerned at continued allegations of children, in particular Roma children, being ill-treated and tortured by law enforcement officials and that these allegations are not effectively investigated by an independent authority.

330. The Committee recommends that the State party:

(a) Amend the legislation defining torture to bring it into line with article 37 (a) of the Convention;

(b) Respond to allegations of torture and other cruel, inhuman or degrading treatment or punishment of children;

(c) Ensure the inadmissibility of evidence obtained through the use of torture;

(d) Take measures to ensure follow-up to the recommendations made by the Human Rights Committee and the Committee against Torture as they relate to the Convention on the Rights of the Child;

(e) Take immediate measures to stop police violence against children belonging to minorities, in particular the Roma, and challenge the prevailing impunity for such acts of harassment;

(f) Take all legislative measures to prohibit all forms of torture and other cruel, inhuman or degrading treatment or punishment;

(g) Provide support for the care, recovery, reintegration and compensation of victims.

#### 5. Family environment and alternative care

##### Family environment

331. The Committee notes with deep concern that, as noted in the State party's report, family disintegration, including high rates of divorce, growing numbers of single-parent families and cases of parental neglect, is a growing phenomenon. The Committee is further concerned at the growing percentage of families living below the poverty line, and regrets that its previous recommendation that the State party take further steps to strengthen the system of assistance to both parents in the performance of their child-rearing responsibilities has not been followed-up, (ibid., para. 25). Moreover, financial assistance to families has decreased.

332. The Committee expresses serious concern at the high increase in the number of children left without parental care and regrets that its previous recommendation (ibid., para. 26) to the State party to develop a comprehensive strategy to assist vulnerable families has not been followed.

333. In light of article 18, the Committee recommends that the State party:

- (a) Strengthen its efforts to protect children's right to a secure family environment and ensure, through a comprehensive new Children's Act, effective protection of children and access by all children and parents in need to financial assistance in this regard;
- (b) Take action on the recently drafted social assistance bill designed to restructure the system of social security benefits;
- (c) Improve social assistance and support to families through advice and education so as to promote positive child-parent relationships;
- (d) Provide adequate training to social workers;
- (e) Strengthen preventive measures, such as supporting the role of families and communities, in order to help eliminate the social conditions leading to such problems as delinquency, crime and drug addiction;
- (f) Consider increasing financial support for families with children living in poverty under the Poverty Reduction Strategy 2001 at the national, regional and local levels.

#### Corporal punishment

334. The Committee welcomes the new Protection from Domestic Violence Act 2001, but remains concerned that it has not yet been implemented.

335. The Committee recommends that the State party:

- (a) Conduct a study to assess the nature and extent of ill-treatment, abuse and neglect of children in the home, and design policies and programmes to address them;
- (b) Establish effective procedures and mechanisms to receive, monitor and investigate complaints, including by intervening where necessary, and investigate and prosecute instances of ill-treatment

and all forms of domestic violence, including corporal punishment, ensuring that the abused child is not victimized in legal proceedings and that his/her privacy is protected;

(c) Train teachers, law enforcement officials, care workers, judges and health professionals in the identification, reporting and management of all kinds of violence against children;

(d) Take into consideration the recommendations of the Committee adopted at its days of general discussion on violence against children (CRC/C/100, para. 688 and CRC/C/111, paras. 701-745);

(e) Carry out public education campaigns about the negative consequences of ill-treatment of children and promote positive, non-violent forms of discipline as an alternative to corporal punishment.

#### Recovery of maintenance

336. The Committee is concerned that State assistance to single parents is inadequate and that the system for recovering child maintenance is inefficient and allows for delays in payments, sometimes lasting several years.

337. The Committee recommends that the State party establish a mechanism that will implement and monitor more proactive, timely and effective policy for collecting maintenance from the parent responsible for paying it.

#### Children deprived of a family environment/alternative care

338. The Committee notes that the Ministry of Education and the Ministry of Health and Housing are responsible for alternative care institutions.

339. The Committee is concerned at the predominant use of institutional responses to provide assistance to children in difficulty and that children who are cared for in institutions for many years, until the age of 18, are not given the educational and vocational skills necessary for them to make an independent living once they leave the institution. The Committee also expresses concern at the low quality of care in some institutions and at the condition of these institutions.

340. The Committee is concerned that alternative care, such as foster care, or other forms of family-based alternative care, are not sufficiently developed and available. The Committee is further concerned that children lack effective mechanisms to communicate concerns and complaints about their placement.

341. In light of article 20 of the Convention, the Committee recommends that the State party:

(a) Consider establishing or strengthening at the national, regional and local levels the mechanism in charge of alternative care within the system of social welfare;

(b) Take effective measures, including the development of strategies and awareness-raising activities, to prevent or reduce the abandonment of children;

- (c) Take effective measures to increase and strengthen foster care, family-type foster homes and other family-based alternative care and correspondingly decrease institutional care as a form of alternative care;
- (d) Place children in institutions only as a measure of last resort and as a temporary measure;
- (e) Take all necessary measures to improve conditions in institutions, in accordance with article 3, paragraph 3, of the Convention, and to increase the participation of children;
- (f) Provide support and training for personnel in institutions, including social workers;
- (g) Continue to monitor standards of care and, in light of article 25 of the Convention, establish periodic review of placement;
- (h) Provide adequate follow-up and reintegration support and services for children who leave institutional care.

#### Adoption

342. The Committee regrets that its previous recommendation that the State party consider ratification of the Hague Convention on Protection of Children and Cooperation in Respect of Intercountry Adoption of 1993 has not yet been followed up (*ibid.*, para. 28). The Committee is concerned that adopted children do not have the right, as far as possible, to know the identity of their biological parents.

343. The Committee reiterates its recommendation that the State party ratify the Hague Convention on Protection of Children and Cooperation in Respect of Intercountry Adoption, of 1993. In light of articles 3 and 7 of the Convention, the Committee recommends that the State party undertake all necessary measures to allow all adopted children to obtain information on the identity of their parents to the extent possible.

#### 6. Basic health and welfare

344. The Committee is deeply concerned at the severely reduced quality and accessibility of health-care services. The Committee is further concerned at the inaccessibility of medical assistance to children who have left their homes; the increase in child morbidity; the high maternal mortality rates; the increase in the number of disabled children; and the high incidence of iodine deficiency and nutrition problems, especially among children from low-income households.

345. The Committee urgently recommends that the State party:

- (a) Ensure that all children, especially from the most vulnerable groups, have access to primary health care;

- (b) Develop a national policy in order to ensure an integrated and multidimensional approach to early childhood development, with a focus on health and nutrition;
- (c) Continue to operate with and seek assistance from, among others, UNICEF and WHO.

### Children with disabilities

346. The Committee is concerned at the prevailing poor situation of children with disabilities and the increase in the number of disabled children in the period 1993-1997. In particular, it is concerned at:

- (a) The practice of institutionalizing children with disabilities;
- (b) The lack of counselling and psychological care by the State for disabled children;
- (c) The lack of State support to families with disabled children;
- (d) The societal discrimination faced by children with disabilities;
- (e) The considerable reduction in the resources allocated to residential homes;
- (f) The limited inclusion of and access by children with disabilities to various areas of daily life, in particular with regard to the education system.

347. In light of article 23 of the Convention, the Committee reiterates its previous recommendations that the State party:

- (a) Undertake studies to determine the causes of and ways to prevent disabilities in children;
- (b) Conduct public campaigns to raise awareness of the situation and the rights of children with disabilities;
- (c) Allocate the necessary resources for programmes and facilities for all children with disabilities, especially the ones living in rural areas, and strengthen community-based programmes to enable them to stay at home with their families;
- (d) In light of the Standard Rules on the Equalization of Opportunities for Persons with Disabilities (General Assembly resolution 48/96, annex) and the Committee's recommendations adopted at its day of general discussion on the rights of children with disabilities (CRC/C/69, paras. 310-339), further encourage their integration into the regular educational system and their inclusion into society, including by providing special training to teachers and by making schools more accessible.

### Environmental health

348. The Committee welcomes the information that the State party has moved the families from



the areas most affected by the Chernobyl disaster. However, the Committee remains concerned that, as noted in the State party's report, the main factors exerting a harmful impact on children's health (and that of pregnant women) remain the aftermath of the Chernobyl disaster, the high level of chemical pollutants in the atmosphere and food products, and the high level of noise pollution.

It further notes that insufficient attention has been given to the long-term health and psycho-social consequences of the Chernobyl disaster.

349. The Committee recommends that the State party:

(a) Continue to improve the specialized health care provided to children affected by the Chernobyl disaster, including its psychosocial aspect;

(b) Strengthen its efforts to detect and prevent diseases related to nuclear contamination;

(c) Focus more on a long-term developmental approach to the assistance given to people through, inter alia, supporting United Nations initiatives in this area;

(d) Take all appropriate measures, including seeking international cooperation, to prevent and combat the damaging effects of environmental degradation on children, including pollution of the environment and food products.

#### Adolescent health/HIV/AIDS

350. With regard to adolescent health, the Committee is concerned at the rise in the number of children and adolescents addicted to drugs, alcohol and smoking. The Committee expresses concern about the lack of access, without parental consent, to medical counselling and advice. The Committee is also concerned about the large number of teenage abortions, this being the principal cause of maternal mortality.

351. While noting the State party's efforts in the area of HIV/AIDS, the Committee remains concerned at:

(a) The growing number of cases of HIV/AIDS among the youth;

(b) The very serious impact of HIV/AIDS on the cultural, economic, political, social and civil rights and freedoms of children infected with or affected by HIV/AIDS, including the Convention's general principles, in particular non-discrimination, health care, education, food and housing, as well as information and freedom of expression;

(c) The absence of an effective national system to manage, monitor, implement and evaluate the efficiency of the State party's HIV/AIDS prevention programmes and the lack of uniform standards regulating care, treatment, medical services and social assistance for people and families living with HIV;

(d) Insufficient counselling services provided to people with HIV/AIDS, especially adolescents.

352. The Committee recommends that the State party:

- (a) Take the necessary measures to address the increase in alcohol abuse, smoking and drug addiction and provide adolescents with access to medical counselling and advice without parental consent, taking into consideration the evolving capacities of the child;
- (b) Ensure that adolescents have access to and are provided with education on reproductive health and other adolescent health issues, including mental health, as well as with child-sensitive and confidential counselling services;
- (c) Undertake a comprehensive and multidisciplinary study to assess the nature and extent of adolescent health problems, including the negative impact of sexually transmitted diseases and HIV/AIDS and, with the full participation of adolescents, use this as a basis to formulate adolescent health policies and programmes;
- (d) Integrate respect for the rights of the child into the development and implementation of its HIV/AIDS policies and strategies on behalf of children infected with and affected by HIV/AIDS, as well as their families, including by making use of the International Guidelines on HIV/AIDS and Human Rights (E/CN.4/1997/37, annex I) and with particular reference to children's rights to be protected from discrimination and to health, education, food and housing, as well as the rights to information and freedom of expression;
- (e) Increase its efforts to prevent HIV/AIDS and take into consideration the recommendations of the Committee adopted at its day of general discussion on children living in a world with HIV/AIDS (CRC/C/80, para. 243);
- (f) Seek further technical cooperation from, among others, UNAIDS and the United Nations Development Programme.

#### 7. Education, leisure and cultural activities

353. The Committee welcomes the efforts undertaken by the State party to improve the education system with the introduction of the Act "On education", which includes such aims as ensuring the delivery of compulsory secondary education to all children of school age. The Committee also welcomes the adoption of State standards for higher education. The Committee remains concerned, however, that:

- (a) The financial management of the system is inefficient and not transparent;
- (b) The increase in the cost of education has limited access by children from economically disadvantaged households;
- (c) The decrease in the number of pre-school establishments limits children's access to pre-schooling;

- (d) Drop out rates in secondary and vocational education are increasing;
- (e) There are important regional disparities in the number of education establishments and in the quality of education available, with rural areas being at a particular disadvantage, and that children of small national minorities such as Roma do not get quality education, including in their own language;
- (f) Education reforms are being implemented without the necessary preliminary preparation and training of teachers.

354. The Committee recommends that the State party:

- (a) Ensure the availability of free primary education and accessibility for all children in the State party, giving particular attention to children in rural communities, Roma children, Crimean Tatar children and children of other minorities, as well as children from disadvantaged backgrounds, to good quality education, including in their own language;
- (b) Take the necessary steps to increase the number of pre-school establishments;
- (c) Ensure that legislation with regard to compulsory education is enforced, including through the provision of the appropriate resources for this purpose;
- (d) Ensure that education reforms are implemented with sufficient preparation and that support is provided to schools to implement the reform, including extra funding and teacher training, and establish a process for quality evaluation of the new programmes;
- (e) Improve the quality of education in the whole country in order to achieve the goals mentioned in article 29, paragraph 1, of the Convention and the Committee's General Comment No. 1 on the aims of education, and ensure that human rights education, including children's rights, is included in the school curricula.

## 8. Special protection measures

### Refugee and internally displaced children

355. The Committee welcomes the enactment of the Refugee Law 2001, but remains concerned that:

- (a) As noted in the State party's report, some refugee children, especially older ones, do not attend school which prevents them from obtaining an education and leads to their isolation in Ukrainian society;
- (b) The registration and refugee status determination procedures have been suspended since August 2001, pending the implementation of the new refugee law;

(c) Nutritional and medical care provided to illegal migrants, including children, who are detained at points of entry and held on the premises of the border guards, is inadequate.

356. The Committee recommends that the State party:

(a) Develop a procedure to attend to the specific needs and situation of unaccompanied child refugees, as suggested in the State party's report;

(b) Implement the Refugee Law 2001;

(c) Ensure that asylum-seeking, refugee and illegal immigrant children have access to education and health services;

(d) Ensure adequate nutritional and medical care for children detained in border guard facilities;

(e) Accede to the Convention relating to the Status of Stateless Persons and the Convention on the Reduction of Statelessness.

#### Economic exploitation

357. The Committee, while noting the creation of the Ministry of Labour and Social Policy in 1996, which is responsible for monitoring compliance with the labour legislation, particularly in respect of children, remains concerned that there is inadequate enforcement of the Ukrainian Labour Code, in particular with regard to hazardous and forced labour, and that a large number of children are reported to be working, particularly in the informal sector.

358. The Committee recommends that the State party:

(a) Undertake a national survey on the causes and extent of child labour with a view to adopting and implementing a national plan of action to prevent and combat child labour;

(b) Continue efforts to protect all children from economic exploitation and from performing any work that is likely to be hazardous or to interfere with the child's education, or to be harmful to the child's health or physical, mental or social development.

#### Sexual exploitation and trafficking

359. The Committee is concerned at:

(a) The growing involvement of children in the sex industry;

(b) The non-implementation of the national plan of action to prevent trafficking in women and children;

(c) The large-scale trafficking of children, in particular girls, for the purpose of sexual and other forms of exploitation and the lack of a clearly defined minimum age of sexual consent.

360. The Committee recommends that the State party:

(a) Take action to combat child trafficking, child prostitution and other forms of sexual exploitation of children;

(b) Implement the national plan of action against sexual and commercial exploitation of children, taking into account the Declaration and Agenda for Action and the Global Commitment adopted at the 1996 and 2001 World Congresses against Commercial Sexual Exploitation of Children;

(c) Continue and strengthen its efforts to combat trafficking of women and children, including through the new national plan of action to prevent trafficking in women and children, and ensure that this programme is provided with sufficient resources to guarantee its effective implementation;

(d) Establish recovery and social reintegration programmes for child victims;

(e) Ratify the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime.

#### Street children

361. The Committee is extremely concerned at:

(a) The increasing number of street children and unacceptable policies and programmes implemented by the juvenile affairs services to address this situation;

(b) The special preventive sweeps such as “Lesson”, “Street children”, “Railway station” and “Holiday” and at the keeping of a special data base of information on these children which is being considered as social assistance aimed at preventing abandonment and criminality;

(c) The vulnerability of street children to, inter alia, sexual abuse, violence, including from the police, exploitation, lack of access to education, substance abuse, sexually transmitted diseases, HIV/AIDS and malnutrition.

362. The Committee recommends that the State party:

(a) Ensure that street children are provided with adequate nutrition, clothing, housing, health care and educational opportunities, including vocational and life-skills training, in order to support their full development;

(b) Ensure that street children are provided with services that promote physical and psychological recovery and social reintegration;

(c) Undertake a study to assess the scope and causes of the phenomenon and consider establishing a comprehensive strategy, to address the increasingly large number of street children, with the aim of preventing and reducing this phenomenon in the best interests of these children and with their participation;

(d) Consider addressing the situation of street children within the system of youth social welfare services rather than juvenile affairs services.

#### Administration of juvenile justice

363. The Committee welcomes the adoption in 1995 of the Act “On juvenile affairs agencies and services and on special juvenile institutions” which are responsible for social protection and prevention of crime with respect to children, and the establishment of Juvenile Police Units. The Committee, however, remains particularly concerned at:

(a) The absence of specialized juvenile courts and juvenile judges despite the legal provisions for these bodies in national legislation, and the limited number of legal professionals, social workers, community educators and supervisory officers working in this field;

(b) The extended period of time before detainees’ families are informed of the detention, the long period of detention before having to be brought before a judge (72 hours) and the duration of pre-trial detention (18 months);

(c) The placement in isolation of children aged 11 to 18 years in juvenile reception/distribution centres under the authority of the Special Ministry and the poor conditions in these centres and in all institutions where children are deprived of their liberty;

(d) The insufficient education and guidance provided in corrective and other institutions and the lack of social and psychological rehabilitation services.

364. The Committee recommends that the State party:

(a) Ensure the full implementation of juvenile justice standards, in particular articles 37, 40 and 39 of the Convention, as well the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (the Beijing Rules) and the United Nations Guidelines for the Prevention of Juvenile Delinquency (the Riyadh Guidelines), and in light of the Committee’s day of general discussion on the administration of juvenile justice, held in 1995 (see CRC/C/69);

(b) Use detention, including pre-trial detention, only as a measure of last resort, for as short a time as possible and for no longer than the period prescribed by law;

(c) In light of article 39, take appropriate measures to promote the recovery and social reintegration of children involved in the juvenile justice system, including adequate education and certification to facilitate their reintegration;

(d) Seek assistance from, inter alia, the Office of the United Nations High Commissioner for Human Rights, the United Nations Centre for International Crime Prevention, the International Network on Juvenile Justice and UNICEF, through the Coordination Panel on Technical Advice and Assistance on Juvenile Justice.

### Criminal Code

365. The Committee is concerned at the general lack of comprehensive information on the Criminal Code 2001. The Committee is, however, particularly concerned at the information received in the written replies according to which disorderly conduct has been defined as a serious crime constituting a danger to society and leading to the criminalization of behavioural problems. The Committee is further concerned at the severe penalties imposed on minors under the Criminal Code 2001.

366. The Committee recommends that the State party review its classification of serious crimes in order to minimize the scope of criminal responsibility for 14 to 16-year-old children. The Committee further recommends, in light of articles 37, 39 and 40 of the Convention, that the State party review the Criminal Code 2001, so that penalties for children are conducive to the realization of the goals of juvenile justice, as spelled out in article 40, paragraph 1, of the Convention, and are at least not more severe than under the previous Criminal Code.

### Children belonging to minority groups

367. The Committee is concerned that, despite pilot programmes aimed at improving the situation of the Roma in certain provinces, they still suffer from widespread discrimination, which has in some instances impeded their children's right to education, health and social welfare.

368. The Committee recommends that the State party:

(a) Initiate campaigns at all levels and in all provinces aimed at addressing the negative attitudes towards the Roma in society at large and in particular amongst authorities and professionals providing health, education and other social services;

(b) Develop and implement a plan aimed at integrating all Roma children into mainstream education and prohibiting their segregation in special classes and which includes pre-school programmes for them to learn the primary language of schooling in their community;

(c) Develop curriculum resources for all schools that include Romani history and culture in order to promote understanding, tolerance and respect for Roma in Ukrainian society.

### 9. Optional Protocols

369. The Committee welcomes the signing by the State party of the Optional Protocols to the Convention on the Rights of the Child on the sale of children, child prostitution and child

pornography, and on the involvement of children in armed conflict, and encourages the State party to ratify them.

#### 10. Dissemination of the report

370. In light of article 44, paragraph 6, of the Convention, the Committee recommends that the second periodic report and the written replies submitted by the State party be made widely available to the public at large and that the publication of the report be considered, along with the relevant summary records and concluding observations adopted by the Committee. Such a document should be widely distributed in order to generate debate and awareness of the Convention and its implementation and monitoring within all levels of administration of the State party and the general public, including concerned non-governmental organizations.

#### 11. Next report

371. The Committee underlines the importance of a reporting practice that is in full compliance with the provisions of article 44 of the Convention. An important aspect of States parties' responsibilities to children under the Convention is to ensure that the Committee on the Rights of the Child has regular opportunities to examine the progress made in the implementation of the Convention. In this regard, regular and timely reporting by States parties is crucial. The Committee recognizes that some States parties experience difficulties in reporting in a timely and regular manner. As an exceptional measure, in order to help the State party catch up with its reporting obligations in full compliance with the Convention, the Committee invites the State party to submit its combined third and fourth periodic reports by 26 September 2008, due date of the fourth periodic report.