



Convention on the Rights of the Child

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Summary record of the 1598th meeting

Held at the Palais Wilson, Geneva, on Wednesday, 26 January 2011, at 10 a.m.

Chairperson: Ms. Lee

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The meeting was called to order at 10.10 a.m.

Consideration of reports by States parties *(continued)*

Initial reports of Belarus on the implementation of the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography (CRC/C/OPSC/BLR/1; CRC/C/OPSC/BLR/Q/1 and Add.1) and on the implementation of the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict (continued) (CRC/C/OPAC/BLR/1; CRC/C/OPAC/BLR/Q/1 and Add.1)

1. *At the invitation of the Chairperson, the members of the delegation of Belarus took places at the Committee table.*

Initial report of Belarus on the implementation of the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography (continued)

2. **Mr. Yakzhik** (Belarus) said that the Government of Belarus was engaged in comprehensive efforts to combat trafficking in persons. The phenomenon was not widespread in Belarus, but 10.8 per cent of the victims were children, mostly between the ages of 16 and 18. Legislation had been introduced in Belarus in conformity with the provisions of the relevant international instruments, including the Optional Protocol, and Belarus was preparing to become a party to the Council of Europe Convention on Action against Trafficking in Human Beings. The 2011–2013 third national plan of action to combat human trafficking contained a section relating to child prostitution and child pornography, and the State was paying close attention to the global increase in organized crime and working with non-governmental and international organizations to combat that phenomenon.
3. The issues of trafficking in persons and child prostitution were addressed in a number of legislative acts and in the national plan of action to improve the situation of children and protect their rights. The Ministry of Education was implementing a programme to protect children against trafficking and to assist children who were victims of trafficking. The various initiatives undertaken since 2005 had made it possible to reduce the number of victims significantly, particularly among children, despite an increase in the number of trafficking cases in 2005 and 2006. Some of those cases had involved criminal groups seeking to establish themselves in Belarus in order to use the country as a base from which international networks could operate.
4. **Mr. Emelianov** (Belarus) said that while the Criminal Code of Belarus penalized all of the criminal acts covered by the Optional Protocol, none of its provisions expressly criminalized the sale of children, child prostitution or child pornography. A general list of offences was set out in the first part of the Code, the second section of which established a distinction between children under 14 years of age and children between 14 and 18 years of age. Judges used that classification of offences and that distinction as a basis for their decisions: if the victim of an offence was a child between 14 and 18 years of age, the applicable penalty was higher than if the victim was an adult, and higher still if the victim was under 14 years of age. It was considered an aggravating circumstance if the offence was committed by an organized group. Young persons used the Internet a great deal; however, cases of sexual exploitation as a result of grooming were rare.
5. **Ms. El-Ashmawy** (Country Rapporteur for the Optional Protocol on the sale of children, child prostitution and child pornography) asked whether Internet providers played a role in improving the safety of child users of the Web.

6. **Mr. Yakzhik** (Belarus) said that Belarus had introduced various measures to strengthen protection for children who used the Internet. It intended to draw on the experience of countries that had taken the additional steps of establishing the criminal liability of Internet providers and creating databases containing information on websites that disseminated images in violation of the Optional Protocol. The Government was endeavouring to coordinate the activities of the 12 ministries involved in implementing the Protocol.
7. **Mr. Emelianov** (Belarus) said that the Criminal Code prescribed a penalty of up to 13 years' imprisonment for the dissemination of child pornography on the Internet or any other computer-based communication network, whether public or private, or in the media.
8. **Mr. Filali**, noting that article 181 of the Criminal Code, which related to trafficking in persons, including the sale of persons, did not expressly refer to children and that the minority of a victim did not constitute an aggravating circumstance, drew attention to the requirement, under the Protocol, to a provision under criminal law that specifically penalized the sale of children and established aggravating circumstances such as the transfer or abduction of the victim. He also noted that the Criminal Code of Belarus defined child prostitution as the use of a child in sexual activities in exchange for remuneration, whereas the Protocol specified "for remuneration or any other form of consideration". He requested the delegation to provide further information on those points.
9. **Mr. Emelianov** (Belarus) said that the Protocol had not been incorporated word for word into the Criminal Code, article 181 of which clearly penalized the trafficking, sale and purchase of persons, including children.
10. **Mr. Filali** said that the terms used in the Criminal Code should be more specific.
11. **Mr. Citarella** (Country Rapporteur for the Optional Protocol on the involvement of children in armed conflict) said that the Protocol required all States parties to penalize the sale of children as defined in that instrument.
12. **Ms. Ortiz** asked whether, in the State party, the offence of selling a person included improperly inducing consent, as an intermediary, for the adoption of a child in violation of applicable international legal instruments on adoption.
13. **The Chairperson** emphasized that States parties must ensure that their criminal legislation fully covered the acts and activities enumerated in the Protocol.
14. **Mr. Yakzhik** (Belarus) said that the Criminal Code penalized the act of improperly inducing consent, as an intermediary, for the adoption of a child and that legislative reform would be carried out taking into account the recommendations and observations made by the Committee.
15. **Mr. Emelianov** (Belarus) said that the 2011–2013 national plan of action to combat human trafficking provided for measures to address new challenges. A presidential decree on the establishment of a mechanism to protect victims of trafficking that would guarantee, in particular, cost-free assistance to underage victims, was to be made law. The police were required to inform all victims of trafficking of their rights and of the assistance, protection measures and rehabilitation services available to them.
16. **Mr. Zermatten** asked how victims that were not yet recognized as such by the police could seek assistance.
17. **Mr. Emelianov** (Belarus) said that such victims could use the emergency telephone helpline that was in operation nationwide. They would be referred to the appropriate authority, depending on the nature of the offence committed. Calls were free of charge, even from abroad. Other channels of information to complement the helpline were to be established under the next plan of action.

18. **The Chairperson** asked whether a special unit had been established to detect offences under the Protocol and which body was responsible for monitoring the implementation of the Protocol. More specific details regarding the sourcing and use of funds for victim assistance would be helpful.

19. **Ms. El-Ashmawy** (Country Rapporteur for the Optional Protocol on the sale of children, child prostitution and child pornography) welcomed the quality of the statistics provided by the State party on trafficking and requested more detailed information on the mechanism for collecting and analysing such data.

20. **Mr. Emelianov** (Belarus) said that as soon as a victim filed a complaint, a report was created and added to the central statistical database managed by the Ministry of the Interior.

21. **Mr. Yakzhik** (Belarus) noted that while it would certainly be useful to have specialists available at various levels to analyse data, the distribution of responsibilities among several ministries and the involvement of numerous entities led to complications and losses of efficiency. For those reasons, the Ministry of the Interior had established a department responsible for the prevention of trafficking and specialized units working directly with underage victims of trafficking, while the regional offices of the Procurator-General had created departments to monitor the implementation of legislation relating to children. An extensive restructuring process was being implemented pursuant to a recently adopted legislative text.

22. **Ms. Sheremet** (Belarus) said that rehabilitation centres had been set up in almost all districts of Belarus. They had the capacity to accommodate child victims of trafficking, who by law were guaranteed emergency shelter for 30 days. Children under 15 years of age were assisted by socio-educational institutions, to which specially trained personnel were shortly to be appointed.

23. **Mr. Koompraphant** said that he was surprised to read, in paragraph 239 of the report, that the presence of a teacher or psychologist during the questioning of victims or witnesses who were minors was only mandatory if the minor concerned was under 14 years of age. He urged Belarus to provide the same protection to all children, regardless of their age.

24. **Mr. Emelianov** (Belarus) said that, in fact, a minor could testify and be questioned only in the presence of a lawyer, a teacher or a psychologist and the minor's legal representative. During proceedings, all possible measures were taken to prevent any contact between the defendant and the child victim, if that was the latter's wish. In such cases, the judge could decide not to call the child to appear; instead, testimony could be given by videoconference, and specially adapted rooms were to be created in order to facilitate such arrangements.

25. As regarded acts committed by or against a Belarusian national abroad, Belarus applied the dual-criminality principle with respect to most offences (the penalty imposed could not be higher than that incurred in the other State), but that procedure did not apply to all offences covered by the Protocol. The commission of those offences by an organized group constituted an aggravating circumstance. A foreign national in Belarus who had committed an offence abroad could be prosecuted only for acts that seriously damaged the interests of the State and for trafficking in persons. To date, no Belarusian national had been implicated in a sex tourism case.

26. **The Chairperson** recalled that, in the absence of an extradition agreement, article 5 of the Protocol could serve as the legal basis for extradition.

27. **Mr. Emelianov** (Belarus) said that the Criminal Code penalized trafficking in organs, prescribing a penalty of 15 years' imprisonment for that offence, and that no child had fallen victim to such trafficking.

Initial report of Belarus on the implementation of the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict

28. **Mr. Citarella** (Country Rapporteur for the Optional Protocol on the involvement of children in armed conflict), welcoming the fact that the Criminal Code of Belarus penalized the recruitment of persons under 18 years of age into armed groups, said that he noted, however, that Belarus had a large number of military schools, including the Suvorov Military School in Minsk. He would be glad to know how the 12- and 13-year-old boys who entered that school, which formed part of the Ministry of Defence, were selected to study there for a five-year period, whether they were enrolled with the consent of their parents, whether they were prepared for integration into the school, whether the teachers received special training and what the children did after leaving the school at 17 years of age.

29. He also wished to know why military, school and university activities were so closely linked; whether a child could choose freely, at 17 years of age, to enter a military academy; what type of activity was organized for children who attended summer military camps; and why so much was done in the area of military training.

30. **Mr. Pollar**, noting that voluntary enlistment was permitted for persons of 18 years of age or above or, subject to parental consent, persons of under 18 years of age, asked what steps had been taken to prevent persons under 18 years of age from participating directly in hostilities, to ensure that older persons were called up first and to afford special protection to persons under the age of 18 years, in accordance with article 3 of the Optional Protocol. He would be glad to know what the minimum duration of service and conditions for exemption were, whether any voluntary recruits were currently in detention or subject to judicial proceedings and whether the Government of Belarus encouraged voluntary enlistment, for example, by offering study grants.

31. **Ms. El-Ashmawy** (Country Rapporteur for the Optional Protocol on the sale of children, child prostitution and child pornography) asked whether school education promoted the values of peace and security.

32. **Mr. Filali** asked whether there was a legal definition of "direct participation in hostilities" and whether there was a limitation period for prosecution of the offence of recruiting a person under 18 years of age, which was punishable by a term of from 5 to 20 years' deprivation of liberty. Bearing in mind the declaration made by Belarus under article 3 of the Optional Protocol, he asked whether it was possible to recruit a person under 18 years of age in time of war.

33. **Mr. Koompraphant** asked whether steps had been taken to identify children likely to have been victims of the offences covered by the Optional Protocol, to assess the needs of such children and, where necessary, to ensure their rehabilitation and reintegration.

34. **The Chairperson**, expressing concern at the large amount of time devoted to military preparation and weapons training at the Suvorov Military School, asked whether pupils at the school had access to an independent complaints mechanism. It would also be interesting to know whether there was a mechanism to control arms exports and thus prevent weapons from reaching countries where children were recruited by armed groups.

35. **Mr. Citarella** (Country Rapporteur for the Optional Protocol on the involvement of children in armed conflict) said that he would like more detailed information about the situation of girls who, on admission to a civilian school, signed a contract whereby they

undertook to enrol in a military academy at 17 years of age, on completion of their five years of civilian education.

The meeting was suspended at 11.40 a.m. and resumed at 11.55 a.m.

36. **Mr. Yakzhik** (Belarus) said that, since gaining independence, Belarus, had not been involved in any armed conflict on its territory or abroad, and that the military school system was no longer a priority for the country, which had adopted a position of neutrality and non-interference. The army had been reformed and the number of servicemen and servicewomen and military training programmes and institutions had fallen. Adolescents who completed their studies at a military school were awarded the same diploma of general education as pupils at civilian schools. Children aged between 12 and 13 could enter a military school, subject to undertaking a psychological test, a medical examination and an entrance examination covering general subject areas. Any child could decide at any time to return to general education; such a decision could also be taken by a child's parent or guardian.

37. Military disciplines were no longer part of school curricula, except at the Suvorov Military School and only for children of 16 and 17 years of age, who were given instruction on protection from biological and chemical threats, assistance in emergency situations and medical and physical education. In 2010, 40 per cent of students nearing the end of their course at the Suvorov Military School had decided to pursue their studies at a military establishment. Students at the school wore a uniform, which was a school's tradition but was of no military significance. The number of hours taken up by physical education at the school was more than at other schools, and that subject was treated as an academic discipline in its own right. The school's curriculum was controlled by the Ministry of Education and pupils enjoyed the same rights as pupils at other schools. The education provided by the school had been restructured; it was no longer aimed at preparing pupils for armed conflict.

38. Persons under 18 years of age could not enlist in the Armed Forces, even with their parents' consent; a child of 17 years of age who had graduated from the Suvorov Military School and entered a military academy could not be mobilized in the event of an armed conflict.

39. **Mr. Citarella** (Country Rapporteur for the Optional Protocol on the involvement of children in armed conflict) asked whether minors wishing to enter a military school and their parents were made aware of the obligations associated with enrolment at such a school.

40. **Mr. Yakzhik** (Belarus) said that the decision to enrol in a military school was taken by the child and his or her parents in full awareness of what that decision entailed. All relevant information requirements for admission and for study at a military establishment was provided, usually after the child had passed an entrance examination. In general, military schools published as much information as possible on the Internet and organized open days in order to answer specific questions from children and their parents. Pupils could freely decide to terminate their contract with the school and to abandon a military career.

41. **The Chairperson** asked whether military schools educated their pupils on the Convention and its Protocols and whether their teaching staff were trained to provide instruction on the subject.

42. **Mr. Yakzhik** (Belarus) said that pupils could pursue an optional course on the rights of the child and the relevant international instruments. Belarus had 10 times fewer military faculties in 2011 than in 1994, and very few students were enrolled. Students there pursued specialist studies in military engineering, military medicine or other subjects. Most of the

young persons interested in pursuing such studies now chose to study at the Military Academy of the Republic of Belarus. Since the army's budget had been greatly reduced, many military bases were no longer in operation. The State used the buildings and land to organize so-called "military camps", usually in the summer. However, those camps did not provide military training; rather, the camp instructors — teachers and instructors in physical education — offered a range of sports activities for children.

43. **The Chairperson** asked whether juvenile offenders were enrolled in such camps.

44. **Mr. Citarella** (Country Rapporteur for the Optional Protocol on the involvement of children in armed conflict) asked whether military personnel took part in the summer camps, which appeared to be military only in name.

45. **Mr. Yakzhik** (Belarus) said that the term "military camps" was indeed confusing and that it would be preferable to use the term "sports camps". No military personnel worked in such camps. No juvenile offenders were enrolled in the camps. Most participants were boys who had had behavioural problems at school but had not been convicted of an offence.

46. Since becoming a party to the Optional Protocol in 2006, Belarus had amended the Weapons Act of 2005 with a view to strengthening compliance with the provisions of the Optional Protocol relating to arms exports. The authorities took steps to ensure that no weapon exported from Belarus reached the hands of children abroad. Belarus made no distinction between the concepts of "armed conflict" and "direct hostilities", since no minor was permitted to participate in armed conflict and the State allowed no exceptions to that prohibition.

47. **Mr. Filali** asked whether a person under 18 years of age could be mobilized in the event of general mobilization.

48. **Mr. Yakzhik** (Belarus) said that the legislation of Belarus established clearly that no child could be mobilized, whether in time of peace or of war, including pupils under 18 years of age enrolled at the Military Academy, even if they were regarded as members of the Armed Forces.

49. **Mr. Zermatten** noted that, under the criminal law of Belarus, while a legal person could not be treated as the perpetrator of an offence, some legal entities, such as companies that exported weapons or operated pornography websites, were liable for acts committed through them or by their staff against children. He wished to know whether Belarus controlled the activities of legal entities and whether company codes of conduct had been adopted in order to raise awareness about the rights of the child and the liability of companies with respect to children.

50. **Mr. Yakzhik** (Belarus) said that the Ministry of Justice was working on a draft law concerning the liability of legal persons.

51. **Mr. Citarella** (Country Rapporteur for the Optional Protocol on the involvement of children in armed conflict) said that he welcomed the information provided by the delegation of Belarus on the implementation of the Optional Protocol and encouraged Belarus to pursue its reform of educational establishments controlled by the Ministry of Defence. He noted with satisfaction that the State party had considerably reduced its military arsenal.

52. **Mr. Yakzhik** (Belarus) said that the delegation had taken note of the Committee's comments and recommendations and that Belarus would take action on them without fail.

53. **The Chairperson** expressed the hope that the comments made by members of the Committee would encourage Belarus to expressly prohibit all acts covered by the Optional Protocols to the Convention and to introduce in its Criminal Code provisions penalizing those acts.

The meeting rose at 12.50 p.m.