

**45th session of the UN
Committee on the Rights of
the Child**

**Information Notes on
Juvenile Justice related
issues**

Defence for Children International
June 2007



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FOREWORD

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

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

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

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

The 45th session was held in Geneva from 21st May to 8th June 2007. During the three-week session, the recently formed¹ Committee on the Rights of the Child considered reports on how the Convention on the Rights of the Child is being implemented in each of the following States Parties: Kazakhstan, Maldives, Slovak Republic and Uruguay. Under the optional protocol on the sale of children, child prostitution and child pornography, members of the Committee reviewed the reports of Bangladesh, Guatemala, Sudan and Ukraine. Under the optional protocol on the involvement of children in armed conflict, the Committee on the Rights of the Child considered the reports of Guatemala, Monaco, Norway and Sweden.

As on previous occasions, the International Secretariat of Defence for Children International attended the session of the Committee on the Rights of the Child in order to follow the presentation of country reports from Kazakhstan, Maldives, Slovak Republic and Uruguay.

Defence for Children International is happy to present the following information notes on issues concerning juvenile justice. These notes are intended to provide the reader with relevant information on the state of juvenile justice in the countries under review, in a concise manner.

Geneva, June 2007

¹ On 21st February 2007, elections were held at the United Nations General Assembly in New York to appoint nine members of the Committee on the Rights of the Child:

- The five CRC members who ran for re-election were re-elected: Mr. Krappmann (Germany), Mr. Kotrane (Tunisia), Ms. Khattab (Egypt), Mr. Filali (Algeria) and Ms. Ortiz (Paraguay).

- New members of the Committee elected on the 21st of February are: Mr. Puras (Lithuania), Mr. Citarella (Italy), Ms. Aidoo (Ghana) and Ms. Herczog (Hungary).

Committee members who were not up for re-election and remain on the Committee through February 2008 are Ms. Al-Thani (Qatar), Ms. Aluoch (Kenya), Ms. Lee (Republic of Korea), Mr. Parfitt (Canada), Mr. Pollar (Uganda), Mr. Siddiqui (Bangladesh), Ms. Smith (Norway), Ms. Vuckovic-Sahovic (Serbia) and Mr. Zermatten (Switzerland).



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INFORMATION NOTE

2nd and 3rd periodic reports of Kazakhstan during the 45th session of the United Nations Committee on the Rights of the Child

Summary of juvenile justice related issues

Ratification of the Convention on the Rights of the Child by Kazakhstan : 16th February 1994

Previous report presented in: July 2003 (33rd session of the CRC).

Members of the CRC Committee present: Ms. Lee (Chairperson), Ms. Aidoo, Ms. Al-Thani, Ms. Aluoch, Mr. Citarella, Mr. Filali, Ms. Herczog, Ms. Khattab, Mr. Kotrane, Mr. Krappmann (Country Rapporteur), Ms. Ortiz, Mr. Parfitt, Mr. Puras, Mr. Siddiqui, Ms. Smith, Ms. Vuckovic-Sahovic, and Mr. Zermatten.

Composition of the delegation of Kazakhstan: Mrs. Madina Jarbussynova (Ambassador-at-Large, Ministry of Foreign Affairs), Mrs. Darya Klebanova (Member of Mazhlis, Parliament of the Republic of Kazakhstan), Mr. Arkin Akhmetov (Charge d'Affaires a.i, Permanent Mission of the Republic of Kazakhstan to the United Nations Office in Geneva), Mrs. Raisa Sher (Chairperson Deputy, Committee on Protection of the Rights of Children, Ministry of Education and Sciences), Mr. Zhumabay Ismailov (Head of Department, Ministry of Health), Mr. Andrey Kravchenko (Head of Department, General Prosecutor's office), Mr. Tastemir Abishev (Secretary, Commission for Human Rights under the President of the Republic of Kazakhstan), Mr. Nurlan Izgutiev (Chief of Division, Ministry of Internal Affairs), Mrs. Zaida Nurabayeva (Chief of Division, Ministry of Justice), Mr. Baurzhan Kalzhanov (Chief of Division, Ministry of Economy and Budget Planning), Mrs. Asel Utegenova (First Secretary, Ministry of Foreign Affairs), Mr. Dudar Zhakenov (First Secretary, Permanent Mission of the Republic of Kazakhstan to the United Nations Office in Geneva).

Areas of concern in previous concluding observations, on the question of juvenile justice: At the end of the 33rd session, CRC members had expressed concerns on the absence of specialized juvenile judges and the insufficient number of legal professionals working in this field, on the length of the pre-trial detention (up to 18 months) and on the lack of information to relatives during these periods and finally on the still large number of children sentenced to placement in corrective and other institutions and insufficient education and guidance provided in these institutions.

Juvenile justice in Kazakhstan. Key issues:

NB: Most of the information from the 2nd and 3rd periodic reports is similar to the information contained in the initial report.

1) Juvenile Justice legislation

According to the initial report of Kazakhstan (presented in 2003), the legal framework for the



administration of juvenile justice is the Criminal Code (entered into force on 1 January 1998) with certain procedural departures to safeguard the rights of the child including article 492 on relatives' participation; a separate chapter (2) of the Criminal Code entitled "Offences against the family and against minors"; a number of elements in other articles and chapters and a separate section of the Code concerning criminal responsibility. A reform of the Justice system is planned in order to create a specific juvenile justice system and a related pilot project is running in Almaty and Karasai for a couple of years already.

2) Minimum age of criminal responsibility

The 1st periodic report indicated that the minimum age of criminal responsibility was set at 16 years of age. For specific types of offence though, the age of criminal responsibility is 14.

3) Number of children:

According to the data of the Legal Statistics Committee Office and of the Procurator-General about 7'000 juvenile offenders are identified each year, of whom almost half are criminally prosecuted. Recently there has been an increase in the number of detected offences committed by juveniles: from 6'614 in 2003 to 7'948 in 2004 and 8'608 in 2005 to reach 8'799 in 2006.

In the past eight years, more than 70,000 minors across the Republic, including 10,796 officially registered in children's homes and residential schools have been placed in centers for temporary isolation, adaptation and rehabilitation of juveniles on account of neglect or homelessness.

4) Alternative measures to deprivation of liberty

The law enumerates such measures as follows: a warning; placing under the supervision of parents or persons in loco parentis, or a specialist State agency; imposition of an obligation to make amends for the damage caused; placement in a special educational or medical-educational institution for minors; restrictions on the minor's leisure and imposition of special requirements as to his or her behaviour.

5) Conditions in detention centers (hygiene, education, leisure...)

According to the 2nd /3rd periodic report, improved material, living and other conditions are being established for juveniles who are held in custody: they are given at least two hours exercise daily and they can receive visits from their parents and relatives.

Convicted juveniles undergo annual medical preventive check-ups; they have access to payphones in all young offenders' institutions and are entitled to an unlimited number of 15-minute calls, annual summer sports and athletics meetings are being organised.

Additionally, juveniles with no general secondary education study in five general-education schools established within correctional institutions.

6) Separation of juvenile offenders from adult inmates

The 2nd /3rd periodic report of Kazakhstan indicates that minors who commit offences and are deprived of their liberty serve their sentences in one of Kazakhstan's four young offenders' institutions which mean that they are separated from adult inmates.



7) Abuses, torture and other degrading or inhuman treatment

According to the information from the 2nd/3rd periodic report, under Kazakh law, minors are protected against torture and other forms of unlawful conduct during investigations. This applies, without exception, to all minors involved in the investigative process, including suspects, minors charged with an offence, victims and witnesses.

In Kazakhstan though, there are 10 special “jail type” schools, the centers for temporary isolation, adaptation and rehabilitation of juveniles, in which children with deviant behavior but not liable to criminal responsibility are placed, which is against international standards. In these institutions, according to the Kazakhstan NGOs' Working Group on Protection of Children Rights, forced labour is used as a punishment and it is common to see younger inmates exploited by the older ones. There also have been reported cases of sexual abuses and degrading treatments from staff in these centers.

Additionally, neglected and homeless adolescents from the age of three to eighteen years old, children without parental care, children taken away from their parents or tutors because of direct threat to their life or health, can be placed in remand homes subordinated to the police, which is another direct violation of the Convention.

8) Training of relevant professionals

The lack of relevant professionals is a well identified problem in Kazakhstan, but the issue wasn't discussed during the presentation of the State Party report and except from the long ongoing pilot project in the Almaty and Karasai regions that is very slow to be extended countrywide, it doesn't seem that any measure has been taken yet.

Conclusion

In the concluding remarks to the presentation of the 2nd/3rd periodic report of Kazakhstan, CRC members noted that some of its previous recommendations have been implemented but regretted that many of them have not been sufficiently addressed, including juvenile justice related ones. The Committee noted the existence of a reform process, albeit slow, within the system of administration of juvenile justice, which shall amend the Penal Code and the Procedural Code. However, the Committee remains concerned that little progress has been made to implement the previous observations in the area of juvenile justice, in particular, the lack of specialized judges and juvenile courts throughout Kazakhstan and the low quality of the current system of detention. The Committee thus recommended that the State party take prompt measures to fully bring the system of juvenile justice in line with the Convention by implementing the Committee's previous recommendations regarding juvenile justice, by accelerating the process of reform of the juvenile justice system, by setting up juvenile courts throughout the country, by training relevant professional, by using deprivation of liberty as a measure of last resort, by providing a better set of alternative socio-educational measures to deprivation of liberty and a policy to effectively implement them, by ensuring that children deprived of their liberty remain in contact with the wider community, in particular with their family, by focusing on the prevention of crimes strategy. The Committee also invited Kazakhstan to seek technical assistance from the UN Interagency Panel on Juvenile Justice and to submit its fourth periodic report by 10 December 2011.



Sources:

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



INFORMATION NOTE

Combined 2nd and 3rd periodic report of the Maldives during the 45th session of the United Nations Committee on the Rights of the Child

Summary of juvenile justice related issues

Ratification of the Convention on the Rights of the Child by the Maldives : 11th February 1991

Previous report presented in: May 1998 (18th session of the CRC).

Members of the CRC Committee present: Ms. Lee (Chairperson), Ms. Aidoo, Ms. Al-Thani, Ms. Aluoch, Mr. Citarella, Mr. Filali, Ms. Herczog, Ms. Khattab, Mr. Kotrane, Mr. Krappmann, Ms. Ortiz, Mr. Parfitt, Mr. Puras, Mr. Siddiqui (Country rapporteur), Ms. Smith, Ms. Vuckovic-Sahovic, and Mr. Zermatten.

Composition of the delegation of Maldives : Ms. Aishath Mohamed Didi (Head of delegation, Minister at the Ministry of Gender and Family), Dr Abdul Muhsin Mohamed (Deputy Minister at the Ministry of Education), Dr. Abdul Azeez Yoosuf (Deputy Minister at the Ministry of Health), Ms. Aishath Azima Yoosuf (Deputy Minister at the Ministry of Home Affairs), Ms. Maana Raafiu (Deputy Director at the Ministry of Gender and Family), Mazeena Jameel (Director of Child and Family Protection Authority within the Ministry of Gender and Family), Uz. Mohamed Anil (Director of the Attorney General's Office), Uz. Aisha Shujune Muhammad (Deputy Director at the Ministry of Justice), Mr. Mohamed Zahid (Vice President of the Maldives Human Rights Commission), Mr. Marc Limon (Chargé d'affaires at the Maldives Mission in Geneva).

Areas of concern in previous concluding observations, on the question of juvenile justice: At the end of the 18th session, CRC members had expressed concerns regarding the low minimum age for criminal responsibility. It was particularly concerned about the situation of children aged between 16 and 18 years who were considered as adults when tried. The Committee was also concerned about the full compatibility of national laws on the administration of juvenile justice with articles 37, 40 and 39 of the Convention as well as other relevant standards.

Juvenile justice in Maldives. Key issues:

1) Juvenile Justice legislation

According to the combined 2nd and 3rd periodic report of the Maldives, the legal framework for the administration of juvenile justice includes the following pieces of legislation: the Penal Code (a revised version should enter into force shortly); the Law on the Protection of the Rights of Children (Law No. 9/91); Rules on Interrogation Adjudication and Sentencing (s289, 6) relating to juveniles (entered into force in 1998, amended in 2004). A Juvenile Justice Act is currently being drafted with the assistance of UNICEF and in consultancy with relevant stakeholders.



2) Minimum age of criminal responsibility

Although the new legislation has increased the minimum age of criminal responsibility (MACR) from 7 years old to 10 years old, the Committee stated that this age remained too low. The delegation pointed out that in the proposed revised version of the Penal Code, the MACR is being raised to 14 years old without exception.

Indeed, the current legislation provides that children under 10 years of age may still be held criminally liable with respect to "haddu" offences and the report states that "civil liability with respect to offences committed by children less than 10 years of age shall be borne by their parents or lawful guardians". The Committee asked the delegation what "haddu" offences were and the delegation explained that those were offences under Islamic Sharia (adultery, treason, etc.) but that no child had ever been punished for those. Furthermore, the delegation told the Committee that no child under the age of 12 had ever been convicted in a Maldivian court. This could be explained by the fact that, as the NGO Alternative Report points out, for religious offences for which flogging is prescribed, children must assume criminal responsibility once they reach puberty.

3) Number of children:

- **in pre-trial detention:** As stated in the report, there are no detention facilities for juveniles under 18 years of age. Juvenile offenders are therefore sentenced to house arrest when convicted.

- **in detention:** Please see above.

The State report explains that for children in conflict with the law, the Himmafushi Children's Social Centre was set up and managed by the National Security Service until 2003. It served as a rehabilitative care centre for boys in conflict with the law. This facility has not been available since 2003 which is why alternative sentencing such as house arrest has been put in place. At the present time, no alternative facility exists for girl children in conflict with the law. However, according to the NGO Alternative report, some children were found in the Dhoonidhoo detention centre and in the Maafushi Prison

The Committee expressed concern regarding the lack of data concerning children in conflict with the law in the report but thanked the delegation for the data provided in the written replies. Indeed, these data show that the longest duration of house arrest (between 1 and 3 years) were applied to children who had committed theft and gang robbery (considered as religious offences while rape is not), or had been found using or in illegal possession of drugs (2003-2005 data). According to the Maldives Police services, the average duration of detention for both males and females under 18 years old is 28 days for most infractions, except those of sexual abuse for which the sentence is longer, as well as some cases of theft.

Besides, the NGO Alternative report states that although the law provides that children must not be detained during investigation unless it is absolutely necessary, in practice, children are often detained by police for investigation and some times held for lengthy periods (see Maldives Human Rights Commission reports 2004, 2005).

4) Alternative measures to deprivation of liberty

During the discussion, the delegation told the Committee that the Juvenile Justice Act (which



draft is currently circulating) would be in line with international instruments and that they were working towards Restorative justice. The draft Act provides for alternative measures to custody and focuses on diversion and non-custodial measures, community-based measures, etc. Deprivation of liberty would only be used as a measure of last resort. The Juvenile Justice Unit, an institutional mechanism which was recently approved, will collaborate with all governmental agencies (police, ministries, etc.) and facilitate diversion for children.

According to the State report, one way that the Courts are currently approaching juveniles in conflict with the law is by providing them with an opportunity to participate in « family conferences ». It gives the parties involved in the delinquent's life a chance to understand him/her better and a chance for the juvenile to re-integrate into the community. Because of the family conferencing, schools are making allowances for children to go back to school, even if they are found guilty, which represents a major change to the juvenile justice system. However, the report also states that not all juvenile offenders have access to family conferencing options since it is only available in Malé and the costs would be too high for families from outer Atolls to bring their children there. The family/community conferencing model gives greater emphasis to community based rehabilitation and will serve as a diversion from juvenile detention and should be fully set up by the end of 2008.

5) Conditions in detention centers (hygiene, education, leisure...)

The report states that the only mechanisms in place to monitor conditions of detention facilities is the Maldives Human Rights Commission as well as the Committee assigned to inspect detention facilities. The report also mentions the planned re-opening of the Himmafushi Children's Social Centre which will provide education, vocational training, health and recreational facilities to the detainees. The NGO alternative report points out that while juvenile offenders in Malé are given the opportunity to continue school, those from other Atolls/islands are often not given the same opportunity due to lack of understanding on the part of magistrates.

6) Separation of juvenile offenders from adult inmates

The 2nd and 3rd periodic report of the Maldives indicates that currently, there is no separate juvenile detention or rehabilitation facility available and that consequently, juveniles are not kept in prison unless under "extraordinary circumstances". The report states that instead, juveniles are usually placed in detention at home (house arrest).

7) Abuses, torture and other degrading or inhuman treatment

The written replies provided by the State of Maldives states that no cases of abuse occurring during the arrest or detention have been reported. The Committee told the delegation that according to some sources, it seemed that corporal punishment was being exercised on juveniles in detention facilities. The delegation replied that corporal punishment was prohibited by the Child Protection law and therefore physical abuse did not take place within the State administration. It recognized however that corporal punishment did still occur. Indeed, the NGO alternative report contains written testimonies of children under the age of 18 who were verbally and physically abused during their arrest and at the police station.

8) Training of relevant professionals

A Juvenile Court was established in August 1997 in order to hear cases involving children in



conflict with the law. However, this court exists only in Malé, and cases of children in outer islands are mostly heard by the local magistrates or in the islands' courts. The Committee told the delegation that having a sole juvenile court and judge was insufficient. The State report mentions that all cases involving children in conflict with the law in Malé are heard at the Juvenile Court by a "special judge". The NGO alternative report states however that this sole juvenile court judge has only basic qualifications with no other academic or professional qualifications. He is the same judge who sentenced a child under 18 years old to life imprisonment in 2004 (the decision was later overturned by the High Court).

The delegation said that 18 judges were in training in Malaysia and other countries with the faculty of Sharia law. A special training on the CRC is planned to take place this year across the country and the training should be upgraded each year. According to the NGO alternative report, there are no trained social workers or counsellors, and judges play these triple roles from the bench.

The State report mentions the establishment of a Family and Child Protection Unit within the police department, which deals with cases of juvenile offenders. The investigation officers in this Unit receive special additional training to deal with cases relating to sexual abuse, interrogating and questioning of children, as well as dealing with child victims and perpetrators.

With regards to family conferencing, detailed procedures and guidelines have been drawn up by the Juvenile court with the assistance of UNICEF, based on the restorative justice model. There have been 2 trainings of trainers as well as community conferencing programs. Facilitators from 3 Atolls (one from each island) have been trained as well. Trainings and workshops are also organized at the Atoll level in order to increase the level of awareness among concerned Government officials but there is still a lack of trained officials as compared to Malé.

Conclusion

In the concluding observations to the presentation of the combined 2nd and 3rd periodic report of the Maldives, CRC members welcomed the Maldives ratification or accession to international instruments relating to children's rights. However, The Committee was concerned that the administration of juvenile justice in the Maldives was still based on the principle of punishment and detention rather than on restorative justice and that the minimum age of criminal responsibility was too low (10 years old) and should be raised to at least 12 years old.

The Committee was also concerned with the fact that children from the age of 7 could be held liable for "haddu" offences and thus could be sentenced to the death penalty which sentence should be abolished. Despite the introduction of a family conferencing program, the Committee noted the lack of alternative measures and sentencing options to the deprivation of liberty. The Committee urged the government to take measures regarding the reports of children being detained in very poor conditions in the Dhoonidhoo Detention Centre. The Committee also recommended the State to adopt comprehensive strategies not limited to penal measures but which address the root causes of gang violence and crime related to drugs among adolescents, including policies for social inclusion of marginalized adolescents and to seek guidance and technical assistance from UN agencies.

The Committee urged the State to establish specialized juvenile courts with adequately trained



professionals, such as specialized judges, prosecutors and police officers, and consider establishing mobile courts. The government of the Maldives should expedite its efforts to enact a Juvenile Justice Act and ensure that its provisions fully comply with the provisions and principles of the Convention as well as other international standards on the administration of juvenile justice, including the hearing of the child during criminal justice proceedings. Lastly, the Committee recommends the State to take effective measures regarding the improvement of the condition of detention and prison facilities for children in conflict with the law and provide children with separate detention facilities from adults;

Finally the State Party was requested to submit a consolidated 4th and 5th periodic report by 12 September 2011.

Sources:

- **United Nations Convention on the Rights of the Child**
- **United Nations Committee on the Rights of the Child. Concluding observations and recommendations to the Initial report of the Maldives.**
- **United Nations Committee on the Rights of the Child. Initial and 2nd periodic reports of the Maldives. (State reports)**
- **NGO Hama Jamiyya and Care Society, (Alternative report)**



INFORMATION NOTE

2nd periodic report of the Slovak Republic during the 45th session of the UN Committee on the Rights of the Child

Summary of juvenile justice related issues

Ratification of the Convention on the Rights of the Child by the Slovak Republic: 30th July 1990

Previous report presented in: September 2000 (25th session of the CRC).

Members of the CRC present: Ms. Aidoo, Ms. Al-Thani, Ms. Aluoch, Mr. Citarella, Mr. Filali, Ms. Herczog, Ms. Khattab (Country Rapporteur), Mr. Kotrane (Country Rapporteur), Mr. Krappmann, Ms. Lee (President), Ms. Ortiz, Mr. Parfitt, Mr. Pollar, Mr. Puras, Mr. Siddiqui, Ms. Smith, Ms. Vuckovic-Sahovic, Mr. Zermatten.

Composition of the delegation of the Slovak Republic: Mr. Igor Grexa (Director General for Legal and Consular Affairs; Ministry of Foreign Affairs), Mr. Anton Pinter (Permanent Representative of the Slovak Republic to the United Nations and other International Organizations in Geneva), Ms. Zuzana Fellegi (Director General for Human Rights and Minorities; Office of the Government), Ms. Erika Adamova (Spokesperson of the Vice Prime Minister for the Knowledge-based Society, European Affairs, Human Rights and Minorities), Ms. Nadezda Sebova (Director General for Social and Family Policy; Ministry of Labor, Social and Family Affairs), Ms. Ivana Mrazkova (Acting Director of the Department for the Strategy on the Social Protection of Children and the Family; Ministry of Labor, Social and Family Affairs), Ms. Jana Tomatova (Director for Social Integration and Need assistance; Ministry of Labor, Social and Family Affairs), M. Drahoslav Stefanek (Vice Permanent Representative, Permanent Mission of the Slovak Republic in Geneva), Ms. Sonia Danova (Department of Human Rights; Ministry of Foreign Affairs), Ms. Alexandra Hasalova (Department of Private International Law; Ministry of Justice), Ms. Marta Sikrova (Department of Education of National Minorities; Ministry of Education), Ms. Radoslava Rojkova (Department of Foreign Affairs; Ministry of the Interior), Mr. Pavel Kuhn (Office of Migrations; Ministry of the Interior), Mr. Roman Zan (Office for Justice and Criminal Police; Presidium of Police Forces), Ms. Anezka Zummerova (Department of Health and Health Care; Ministry of Health), Ms. Olga Augustinova (Department of Health and Health Care; Ministry of Health), M. Peter Guran (National Center for Human Rights of the Slovak Republic), Mme. Nadezda Rozholdova (Interpreter).

Areas of concern in previous concluding observations on the issue of juvenile justice:

At the end of the 25th session, members of the Committee on the Rights of the Child voiced their concern on the lack of information regarding conditions in juvenile detention centers and independent complaint mechanisms.



Juvenile justice in the Slovak Republic. Key issues:

1) Legislation relating to juvenile justice

According to the 2nd periodic report of the Slovak Republic, the following pieces of legislation include principles relating to juvenile justice: the Code of Penal Procedures and the Penal Code

2) Minimum age of criminal responsibility

The minimum age of criminal responsibility is currently set at 14 years, as enshrined in the Penal Code. Members of the Committee on the Rights of the Child voiced their concern regarding the fact that the minimum age of criminal responsibility had been lowered from 15 to 14 years in the Slovak Republic. The delegation justified this measure as a means to tackle the problem of juveniles who re-offend but also because it is felt that children aged 14 and above are able to recognize their acts. The delegation also added that with regards to juveniles aged 15 and above, even though they are fully responsible, they will be subject to an analysis from the point of view as to whether they can understand their acts or not.

3) Number of children

- in pre-trial detention:
- in detention:

In the written replies provided by the government of the Slovak Republic, the data have not been divided according to the status of children (children in pre-trial detention, under trial and children who are serving a sentence of deprivation of liberty).

The available information is as follows: 10009 children in 2004, 10092 in 2005 and 10167 in 2006.

4) Alternative measures to deprivation of liberty

According to the information from the 2nd periodic report, the following socio-educational measures may be applied to young offenders: probation supervision, educational duties and restrictions, or a reprimand with a caution. If alternative measures to deprivation of liberty may not be applied, children shall be held in detention for as long as it is absolutely necessary.

5) Conditions in detention centers (hygiene, education, leisure...)

This issue was neither touched upon in the different reports nor discussed during the presentation of the State Party's report.

6) Separation of juvenile offenders from adults

The 2nd periodic report of the Slovak Republic indicates that juvenile offenders shall serve their sentence separated from adult inmates and shall thus be placed in specialized juvenile centers. Juveniles who reach the age of 18 may continue serving their sentence in these centers or be transferred to other ordinary detention facilities, where they shall be placed in a security group.

7) Abuse, torture and other degrading treatment or punishment

According to the information contained in the 2nd periodic report, article 16 paragraph 2 of the Constitution of the Slovak Republic stipulates that no person shall be subjected to torture or cruel, inhuman and degrading treatment. Juvenile offenders may not be sentenced to life



imprisonment. Sentences of deprivation of liberty imposed on juvenile offenders range from 2 years (minimum) to 7 years (maximum).

The Global Initiative to End All Corporal Punishment against Children underscored in its alternative report to the Committee on the Rights of the Child that corporal punishment are illegal in the penal system and as a sentence for a crime and as a disciplinary measure in educational centers. Also, the Penal Code expressly forbids this kind of practice.

8) Training of relevant professionals

According to the information from the 2nd periodic report, the National Plan of Action for Children 2002-2004 included among other things the systematic and specialized training of professionals working with and for children in different areas (candidate judges, judges, staff of detention centers and educational centers, candidate prosecutors and prosecutors, social workers, educational personnel and professors, police officers working with juveniles and other experts). During the dialogue with the delegation, members of the Committee asked whether specialized courts existed to handle cases involving juveniles. The delegation responded that there were no specialized judges for children and that the judges were selected according to their experience with regards to children's rights.

Conclusion

In the concluding observations to the presentation of the 2nd periodic report of the Slovak Republic, members of the Committee commended the State Party for the great efforts undertaken since the presentation of the initial report five years ago. The Committee noted with appreciation that an advisory board had been created within each juvenile educational center to improve the educational consequences of detention. Furthermore, emphasis had been laid on the treatment of sentenced juveniles to minimize the negative consequences of their isolation from society. Nevertheless, members of the Committee voiced their concern with regards to the lack of information on the conditions of juvenile detention centers and complaints mechanisms. The Committee encouraged the Slovak Republic to make sure that juvenile justice standards are fully implemented and that attention be given to the following issues: that detention of children be a measure of last resort and for the shortest appropriate period of time; to ensure a proper evaluation of detention; to set up a program of the training of judges; to ensure that the rights of children in detention are respected. Also, members of the Committee encouraged the State Party to seek technical assistance from the Inter-Agency Panel on Juvenile Justice. Finally, the State Party was requested to submit a third periodic report by the 6th of October of 2012.

Sources:

- **UN Convention on the Rights of the Child**
- **Committee on the Rights of the Child. Concluding observations and recommendations to the initial and 2nd periodic report of the Slovak Republic.**
- **Committee on the Rights of the Child. Initial and 2nd periodic report of the Slovak Republic. (State report).**
- **Global Initiative to End All Corporal Punishment against Children. (Alternative report).**



INFORMATION NOTE

2nd periodic report of Uruguay during the 45th session of the United Nations Committee on the Rights of the Child

Summary of juvenile justice related issues

Ratification of the Convention on the Rights of the Child by Uruguay : 20 November 1990

Previous report presented in: September 1996 (13th session of the CRC).

Members of the CRC Committee present: Ms. Lee (Chairperson), Ms. Aidoo, Ms. Al-Thani, Ms. Aluoch, Mr. Citarella, Mr. Filali, Ms. Herczog, Ms. Khattab, Mr. Kotrane, Mr. Krappmann, Ms. Ortiz, Mr. Parfitt, Mr. Puras, Mr. Siddiqui, Ms. Smith, Ms. Vuckovic-Sahovic, Mr. Pollar, Mr. Zermatten (Country Rapporteur).

Composition of the delegation of Uruguay : Dr. Maria Elena Martinez (Head of delegation and Director of the Human Rights department of the Ministry of Education and Culture), Dr. Victor Giorgi (President of the Uruguay Institute for the Child and Adolescent- INAU), Mrs. Elizabeth Oria (Representative of the Ministry of Economics and Finance), Mr. Julio Bango (Representative of the Program “Programa Infancia Adolescencia y Familia” (INFAMILIA) of the Ministry of Social Development), Dr. Carlos Uriarte (Representative of INAU), Dr. Ricardo Pérez Manrique (Representative of the Judicial Power), Mrs. Lourdes Bone (Representative of the Permanent Mission of Uruguay at the United Nations in Geneva).

Areas of concern in previous concluding observations, on the question of juvenile justice: Following the presentation of Uruguay’s initial report, the Committee expressed its regrets regarding the lack of implementation of the Convention relating to the administration of juvenile justice, which had been given insufficient attention. The Committee was concerned at the insufficient measures adopted to ensure that deprivation of liberty was only used as a measure of last resort and that children deprived of liberty were treated with dignity. The Committee was also concerned with the high number of institutionalized children and that insufficient measures had been taken to ensure effective alternatives to institutional care, and to promote their social reintegration.

Juvenile justice in Uruguay. Key issues:

1) Juvenile Justice legislation

N.B.: Throughout the session, the delegation reminded the Committee that the present report had been drafted by the former government of Uruguay (current government came into power in March 2005). The delegation said that although they were not the authors of this report, they still decided to send it to the Committee since they would not have had enough time to draft a new report. Data and information collected from the new government were sent to the Committee in the form of written replies but could not be translated from Spanish in time, before the opening of the session.



Uruguay was one of the first countries to draft a Childhood Code (back in 1934). A new Childhood and Adolescents Code (CAN) was enacted on September 7th 2004 by the previous government, which represented a big step in national legislation. According to the new Code, minors may only be brought to trial if they have committed a crime for which the penalty exceeds one year of imprisonment. The Code also provides for due process guarantees. A whole package of amendments to the current Code as well as new legislation in the area of juvenile justice has been drafted but is still pending. During the discussions, the delegation told the Committee that efforts were being made to try to harmonize the State's current legislation with the upcoming legislation.

2) Minimum age of criminal responsibility

The age of criminal responsibility has not changed since the presentation of the State's initial report. In accordance with the provisions of article 34 of the Criminal Code, "anyone who commits an offence before the age of 18 years cannot be held criminally responsible".

3) Number of children:

- **in pre-trial detention:** No official statistics were provided in the State's report or in the written replies submitted to the Committee. According to the NGO alternative report however, there is a frequent application of measures involving deprivation of liberty as a precautionary measure (preventive imprisonment before sentence).

- **in detention:** According to the NGO alternative report, although the number of adolescents subjected to custodial measures has decreased, the proportion between measures involving deprivation of liberty and those that do not involve deprivation of liberty has reverted. The highest percentage represents measures involving deprivation of liberty. In September 2006, approximately 200 children were deprived of their liberty while only 50 children received an alternative measure.

4) Alternative measures to deprivation of liberty

The new Childhood and Adolescents Code provides for non-custodial measures, including warnings, admonitions, compliance with rules of conduct, guidance and support through socio-educational programs, community service for a period not exceeding two months, the obligation to provide redress or satisfaction to the victim, and probation with assistance or supervision. According to the Code, custodial measures are not mandatory. They are used in cases when the legal requirements for such measures are met and when non-custodial measures would be inappropriate. The judge must give reasons for not applying alternative measures. Also, the law provides that the right of a minor to live with his or her family will be taken into account.

5) Conditions in detention centers (hygiene, education, leisure...)

According to the NGO alternative report, the new authorities have shown positive signs regarding the monitoring of the conditions of deprivation of liberty of adolescents. They let the NGO visit the facilities without prior notice which allowed them to observe several operations carried out within detention centres. However, in some detention centres, adolescents remain locked in their cells for long hours, sometimes from 22 to 24 hours a day. According to the



alternative report, the situation has worsened because of the lack of socio-educational activities.

The report also mentions the lack of therapeutical mechanisms to face the situations of problematic use of psychoactive substances. According to the NGO report, these situations are usually used as an excuse by jurisdictional bodies in order to apply deprivation of liberty measures.

6) Separation of juvenile offenders from adult inmates

According to the State report, minors are detained in separate detention facilities than those of adults and a minor who turns 18 while serving his sentence cannot be transferred to an adults' prison. Many violent and unusual situations that occurred in the recent year have had wide media coverage. The most critical incident happened when adolescents were transferred to Penal de Libertad (a detention centre for adults). This situation clearly violates national and international law.

8) Training of relevant professionals

The State report provides that former juvenile judges have been replaced by professional juvenile judges. Legislation now provides for a 180-hour mandatory training course for staff dealing with minors. According to the NGO report however, the training of professionals needs to be improved since only secondary education was required for "educators"; despite the fact that INAU has a high education Centre for the Training of Social Educators.

Conclusion

In the concluding remarks to the presentation of the 2nd periodic report of Uruguay, CRC members expressed their appreciation regarding the adoption of the new legislation which contains provisions for the implementation of the Convention, including the adoption of the National Code on Childhood and Adolescence. However, the Committee was concerned over the number of minors deprived of their liberty as well as reports of cases of torture on children held in detention. The Committee was also concerned over the conditions in places of detention, extended periods of pre-trial detention, the absence of a specialised juvenile justice system, and that the deprivation of liberty of juvenile offenders was not used as a measure of last resort. Furthermore, the Committee regretted the lack of reintegration measures and social services available to children in conflict with the law. The Committee recommended the state to adopt legislation specifically prohibiting all forms of corporal punishment on children in all types of settings, including at home, and take measures in order to deal with the rising number of street children. The Committee recommended the State party to provide adequate training to professionals dealing with juvenile offenders, ensure that juveniles are kept separated from adults within detention facilities, ensure that these juveniles are able to maintain contact with their families and other relatives while in detention, provide a package of effective alternative socio-educational measures and a policy to implement them, and request technical assistance to UN agencies especially the UN Interagency Panel on Juvenile Justice.

Finally the State Party was requested to submit a consolidated 3rd, 4th and 5th report, by 19 June 2011.



Sources:

-United Nations Convention on the Rights of the Child

-United Nations Committee on the Rights of the Child. Concluding observations and recommendations to the Initial report of Uruguay.

-United Nations Committee on the Rights of the Child. 2nd periodic report of Uruguay. (State report)

-NGO report on the follow-up of the convention on the rights of the child, 2005 (written by Javier Palummo, Luis Pedernera, Adriana Molas, Francisco Terra, Martín Lavalleja and Laura Zacheo) (Alternative report)