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**Promotion et protection de tous les droits de l'homme, civils, politiques, économiques, sociaux et culturels, y compris le droit au développement**

## Visite en Bulgarie

### **Rapport de la Rapporteuse spéciale sur la vente et l'exploitation sexuelle d'enfants, y compris la prostitution des enfants et la pornographie mettant en scène des enfants et autres contenus montrant des violences sexuelles sur enfant\*\* \***

#### *Résumé*

Dans son rapport, la Rapporteuse spéciale sur la vente et l'exploitation sexuelle d'enfants, y compris la prostitution des enfants et la pornographie mettant en scène des enfants et autres contenus montrant des violences sexuelles sur enfant examine les questions relatives à la vente et à l'exploitation sexuelle d'enfants en Bulgarie, à la lumière des normes et règles internationales relatives aux droits de l'homme. En se fondant sur les informations recueillies avant, pendant et après sa visite, elle met en évidence les mesures législatives, le cadre institutionnel et les politiques de protection de l'enfance qui ont été mis en œuvre pour prévenir et combattre ces phénomènes, ainsi que les mesures prises pour assurer la prise en charge, le rétablissement et la réinsertion des enfants victimes. Elle formule des recommandations tendant au renforcement de l'action menée pour prévenir et éliminer la vente et l'exploitation sexuelle d'enfants.

\* Le présent document a été soumis tardivement pour que l'information la plus récente puisse y figurer.

\*\* Le résumé du présent rapport est distribué dans toutes les langues officielles. Le corps du rapport, annexé au résumé, est distribué dans la langue de l'original seulement.



## Annexe

### **Report of the Special Rapporteur on the sale and sexual exploitation of children, including child prostitution, child pornography and other child sexual abuse material, on her visit to Bulgaria**

#### **I. Introduction**

##### **A. Programme of the visit**

1. At the invitation of the Government of Bulgaria, the Special Rapporteur on the sale and sexual exploitation of children, including child prostitution, child pornography and other child sexual abuse material, visited Bulgaria from 1 to 8 April 2019. The objectives of the visit were to assess the situation of the sale and sexual exploitation of children and to evaluate the national child protection system, with a view to making recommendations to prevent and eradicate all forms of sale and sexual exploitation of children.

2. Over the course of the mission, the Special Rapporteur visited Sofia, Burgas, Sliven, Podem and Pernik. She met representatives of the executive, legislature and judiciary at the central and local levels. She held meetings with representatives of the Ministry of Justice, the Ministry of the Interior, the State Agency for Refugees, the Ministry of Education and Science, the Ministry of Labour and Social Policy, the State Agency for Child Protection, the Social Assistance Agency, the Ministry of Health, the Ministry of Youth and Sport and the Ministry of Transport, Information Technology and Communications. She also met the Ombudsman, members of parliament, judges in regional courts, health mediators, information and communications technology (ICT) experts, and representatives of the Commission for Protection against Discrimination, the National Commission for Combating Trafficking in Human Beings, the police force, the Supreme Prosecutor's Office of Cassation, the National Institute of Justice, District Prosecutors' Offices, the National Statistical Institute, the cybercrime unit at the General Directorate for Combating Organized Crime, civil society organizations and childcare services.

3. The Special Rapporteur visited two centres for child victims of trafficking, sexual exploitation and domestic violence, in Burgas and Sredetz; a centre linked to the hospital for victims of sexual violence in Burgas; a family-type residential care institution for child victims of sexual violence; and a family-type placement centre for children and young people with disabilities in Burgas and a crisis centre in Sredetz. She also met health mediators and visited Nadezhda, a Roma neighbourhood in Sliven; the State Agency for Refugees registration and reception centre (Voenna Rampa refugee camp) in Sofia, for the temporary placement of refugees and migrants, including unaccompanied children; and a correctional school for girls in Podem.

4. The Special Rapporteur expresses her gratitude to the Government for facilitating her meetings with the authorities at the central and local levels, the members of civil society who met with her, and the children who were willing to share with her their experiences and their aspirations for their future. The Special Rapporteur also expresses her gratitude to the United Nations Children's Fund (UNICEF) for its assistance before and during her mission. She further thanks the individuals and organizations that she met, for their readiness to share first-hand experiences and insights.

##### **B. Context**

5. Located in south-eastern Europe on the Balkan Peninsula, Bulgaria is an upper-middle-income country and has been a member State of the European Union since 2007. Its population at the end of 2018 was 7,000,039 people, of which 1,004,845 were children

aged 0–15 years.<sup>1</sup> Bulgaria borders Greece, North Macedonia, Romania, Serbia and Turkey. Along with citizens of Bulgarian origin, citizens identifying as Turkish, Roma, Armenian, Jewish, Vlach, Karakachani, Russian, Greek and others live in the country. The majority of the population (75.9 per cent) are of Eastern Orthodox confession (HRI/CORE/BGR/2014, para. 1–3).

6. Despite macroeconomic stability, Bulgaria has yet to attain European Union standards of socioeconomic development and social cohesion. Almost half of Bulgarian children (43.7 per cent,<sup>2</sup> or 527,200 children) live at risk of poverty or social exclusion. Particularly vulnerable are children living in poor households, families with more than three children or with single parents, children of Roma or Turkish ethnicity, children not attending school, children with disabilities, children living in remote rural areas or in regions with limited employment, unaccompanied children, children of migrant or refugee families and children in residential care.<sup>3</sup>

7. Inequality among children of different ethnic groups remains: 45 per cent of Roma children do not attend preschool or kindergarten and 15 per cent do not attend school, due to poverty and inability to pay the hidden costs of education, parents' low level of education, poor health, poor command of the official language, and prejudices and discriminatory attitudes toward ethnic minorities.<sup>4</sup>

8. The increase in the number of unaccompanied migrant and asylum-seeking children arriving on its territory in the period 2014–2016 has placed a significant strain on the country's reception system, exacerbating existing gaps. In 2016, 19,418 migrants and refugees applied for international protection, approximately 30 per cent of whom were children, including unaccompanied children and children separated from their families.<sup>5</sup>

9. Bulgaria has achieved significant progress in the area of childcare reform, more specifically in ensuring the child's right to live in a family environment. The number of children in large residential institutions decreased from 7,587 in 2010 to 633 in 2018, owing to the developed network of foster families and alternative family-type care. In line with an ambitious national strategy entitled "Vision for the deinstitutionalization of children in the Republic of Bulgaria" (2010), all institutions for children with intellectual or psychosocial disabilities and almost half of residential medical and social care homes for children up to the age of 3 years were closed.

10. Bulgaria was elected as a member of the Human Rights Council for the period 2019–2021. It has extended a standing invitation to all special procedure mandate holders.

## II. Scope of the sale and sexual exploitation of children

11. The scope and prevalence of the sale and sexual exploitation of children has been of concern to stakeholders confronted with the plight of victims. However, the real magnitude of the problem is unknown, owing to the unavailability of centralized and disaggregated data on the different forms of sexual abuse and exploitation of children and on the number of cases identified, investigated and prosecuted. According to anecdotal evidence, the scale of child prostitution and child sexual exploitation, including sexual abuse within the inner circle of trust, is vast in Bulgaria. They are believed to be most prevalent among marginalized children struck by poverty, social exclusion and segregation, children on the move, children living in residential care and children left behind by their parents, and occur within a deeply embedded culture of silence, tolerance and stigma towards the most marginalized groups of the society.

<sup>1</sup> National Statistical Institute, *Population and Demographic Processes 2018* (Sofia, 2019), pp. 15–16. Available at [www.nsi.bg/sites/default/files/files/publications/DMGR2018.pdf](http://www.nsi.bg/sites/default/files/files/publications/DMGR2018.pdf).

<sup>2</sup> See [www.nsi.bg/en/content/8288/social-inclusion-and-living-conditions](http://www.nsi.bg/en/content/8288/social-inclusion-and-living-conditions).

<sup>3</sup> UNICEF, *Situation Analysis of Children and Women in Bulgaria 2017* (Sofia, 2018).

<sup>4</sup> *Ibid.*

<sup>5</sup> UNICEF, *Situation Analysis of Children and Women in Bulgaria*, p. 12.

## **A. Sale of children**

### **1. Sale of babies**

12. The sale of babies abroad has become commonplace among some Roma communities. The phenomenon is highly underreported, however, owing to the difficulty in gathering evidence and victim testimony for subsequent prosecution and ensuing lenient or suspended sentences. According to the data from the National Commission for Combating Trafficking in Human Beings, the number of trafficked pregnant women, often young adults aged between 18 and 19 years, who are lured into giving birth and selling their babies abroad has decreased from 97 cases in 2017 to 64 in 2018. Over the past five years, 16 people have been sentenced for trafficking in babies in Burgas Province. Varna, Aytos, Karnobat, Sliven and Kazanlak have also reported cases of sale of newborns. Cases of trafficking to Greece, which frequently end up as illegal adoption, are reportedly difficult to investigate because of a lack of systematic cooperation between the two countries.

13. During her subsequent visit, the Special Rapporteur on violence against women, its causes and consequences, was also alarmed to hear about this phenomenon. Desperation, lack of economic opportunities and marginalization are reported to be the main reasons for this new form of trafficking.<sup>6</sup>

### **2. Sale in the context of adoption**

14. Although Bulgaria ratified the Hague Convention on Protection of Children and Cooperation in Respect of Inter-country Adoption (1993) in 2002 and has made significant efforts to counter illegal adoption, illegal practices persist, especially in intercountry adoption. Anecdotal evidence suggests that babies born mainly to young single mothers are sometimes offered to families willing to adopt. The husband of the future adoptive mother recognizes the child as his own within seven days of the birth so that his name appears along with that of the birth mother on the child's birth certificate. Later, the birth mother gives consent for the adoption of the child, and the adoptive mother adopts the child. This practice circumvents the adoption procedure and is manifestly against the best interests of children. The child is commodified: the birth mother receives payment (medical doctors reportedly act as intermediaries) and families choose their child. The child's right to know his or her origin is compromised and other rights might be infringed. The existence of such a practice is also indicated in judgments of the European Court of Human Rights.<sup>7</sup> According to the Social Assistance Agency, each suspicious case is examined to determine whether the recognition of the child was carried out with the aim of circumventing adoption legislation or dragging the child into trafficking or exploitation, or whether it has involved a financial consideration. The Special Rapporteur was told, however, that such examination is neither consistent nor monitored.

### **3. Child marriage**

15. The practice of bride sales and child marriage of girls as young as 12 or 13 years old is widespread among some Roma communities despite being illegal. In most instances, parents marry their children early to protect their honour and prevent early pregnancy and bride kidnapping. In some instances, child marriages are reportedly a cover-up to acquire the child for various forms of exploitation, including sexual exploitation by the inner circle of trust, forced labour, pickpocketing and begging. According to the National Statistical Institute, there were 618 marriages of girls under the age of 18 years in 2017 and 481 in 2015, with the highest numbers registered in Plovdiv and Burgas.

16. The Special Rapporteur was told that complaints of child marriages or forced marriages, when lodged, rarely led to criminal proceedings. As of July 2016, 68 sentences

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<sup>6</sup> Office of the United Nations High Commissioner for Human Rights (OHCHR), "Bulgaria: UN expert concerned about pushbacks on women's rights and misinterpretation of the term 'gender' that stopped the ratification of the Istanbul Convention", 21 October 2019.

<sup>7</sup> European Court of Human Rights, *Case of L.D. and P.K. v. Bulgaria*, Applications No. 7949/11 and No. 45522/13, Judgment, 8 December 2016.

had been issued for cohabitation with a person under the age of 14 years, of which 63 had been suspended. According to the National Statistical Institute, there had been only 14 sentences for crimes “against marriage and family” in 2017, a figure that also included crimes such as the sale of babies and bigamy. The Special Rapporteur was told that out of 125 cases investigated, no convictions had been handed down in 2018.

#### 4. International commercial surrogacy arrangements

17. Systematic information on the prevalence of surrogacy arrangements, whether domestic or international, is not gathered in Bulgaria. The topic of surrogate motherhood is still taboo and opinions are strongly polarized. All forms of commercial and altruistic surrogacy are prohibited, though foreign surrogacy is possible by circumventing domestic legislation. The lack of a regulatory framework leaves the recognition of parenthood open and dependent on foreign legislation.

18. Furthermore, the rapidly increasing number of private clinics, the lack of institutional control and the financial incentives related to surrogacy lead to hidden practices, such as forcing minors (between the ages of 14 and 18 years, primarily from disadvantaged background) into repeated surrogate motherhood and egg donation, with considerable health risks. Complications are neither handled properly nor reported and financial support for surrogate mothers is not provided.

## B. Sexual abuse and sexual exploitation of children

19. Although the information received is fragmented and anecdotal and data diverging, the evidence gathered from child protection stakeholders demonstrates that child sexual exploitation, including sexual abuse within the inner circle of trust and at a residential institution,<sup>8</sup> is real and extensive in Bulgaria, and believed to be most prevalent among children belonging to marginalized communities. The extent of child prostitution is unknown, given the lack of comprehensive, systematically collected, reliable and disaggregated data on the number of investigations and prosecutions undertaken. Further, there is no formal mechanism to identify child victims of prostitution. Data is based on statistics regarding lesbian, gay, bisexual, transgender and intersex children, together with statistics regarding children exploited in prostitution when placed in education facilities only. According to UNICEF, the child protection system received approximately 3,000 reports of violence in 2015, although many cases are presumed not to have been reported.<sup>9</sup> According to the National Programme for the Prevention of Violence against and Abuse of Children, there were 23 child victims of rape or attempted rape in institutions in 2016. However, these data are incomplete, as many cases are not reported owing to the stigma surrounding the issue of sexual abuse of children and the fact that it is largely regarded as a private family matter. The culture of silence further inhibits reporting. Furthermore, some cases may reach the police but not child protection units, owing to the lack of communication among entities and different methodologies of gathering information.

### 1. Trafficking for the purposes of sexual and labour exploitation

20. Bulgaria remains one of the primary source countries of human trafficking in the European Union, including trafficking for the purposes of sexual exploitation (see CAT/C/BGR/CO/6 and CCPR/C/BGR/CO/4). It is a source and, to a lesser extent, transit and destination country for people subjected to sex trafficking and forced labour. There has been a significant increase in the number of Bulgarian and Roma victims who are exploited into domestic servitude, forced labour, begging and pickpocketing. Bulgarians of Turkish ethnicity and Roma girls, some as young as 13 years old, account for most sex trafficking victims identified, particularly in the capital, resort areas and border towns. Boys are reportedly subjected to forced labour across Europe, in agriculture, construction and the

<sup>8</sup> See European Court of Human Rights, *Case of A. and Others v. Bulgaria*, Application No. 51776/08, Judgment, 29 November 2011; and European Court of Human Rights, *Case of D.L. v. Bulgaria*, Application No. 7472/14, 19 May 2016.

<sup>9</sup> UNICEF, *Situation Analysis of Children and Women in Bulgaria*.

service sector. While trafficking for the sexual exploitation of boys is a hidden phenomenon, victim caseloads in Bulgaria reveal that boys make up a fifth of victims trafficked for sexual exploitation.<sup>10</sup> This phenomenon is largely latent and difficult to identify because victims hesitate to come forward because of fear of reprisal or stigma.

21. Internal trafficking and sexual exploitation in the context of tourism, whereby children are moved around for the purposes of sexual exploitation between popular Bulgarian resorts, also remains a serious problem. Although a checklist for the identification of potential victims is used by the border police, this method is not consistently applied and therefore not effective. Those forced into prostitution in the streets and near motorways are believed to be from impoverished families predominantly from several larger towns near the motorways.

22. In 2018, 23 cases of child victims of trafficking were referred to the State Agency for Child Protection, of whom 15 were girls and 8 were boys. In 2016, there were 28 cases of child victims of trafficking for labour or sexual exploitation. According to the Supreme Prosecutor's Office of Cassation, meanwhile, the number of underage female victims trafficked for the purposes of sexual exploitation increased from 32 cases in 2017 to 48 in 2018, while no boys were reported. During the same period, out of 68 convictions for human trafficking, 58 were acquitted, although it is unclear how many were in relation to crimes against children.

## 2. Child sexual abuse material

23. Bulgaria has one of the highest and cheapest household broadband penetration rates in Europe, with one of the highest proportions of active Internet users among children as young as 7 years old.<sup>11</sup> There is limited data available on the prevalence of child sexual exploitation facilitated by or committed through the Internet and no disaggregated statistics on investigations and convictions related to child sexual abuse material. In 2018, five men were detained in Bulgaria for distributing child sexual abuse material. During the first quarter of 2019, 70 investigations were launched, of which half were reportedly related to child abuse material while the rest were related to "sextortion".

## C. Root causes and risk factors

24. Poverty (E/C.12/BGR/CO/6, para. 33), discrimination, segregation and social exclusion create unequal access to social services and education for children in the most marginalized communities. Roma children, children living in poor and non-regulated settings at risk of eviction, children living or working in the streets, children of migrant or refugee families, unaccompanied or separated children, children in residential care or State-run institutions and lesbian, gay, bisexual, transgender and intersex teenagers are particularly exposed to the worst forms of sexual abuse and commercial sexual exploitation, including by caregivers (CRC/C/BGR/CO/3-5, para. 27 (a)).<sup>12</sup> The overwhelming majority of children whom the Special Rapporteur met in crisis centres and institutions were of Roma origin. The deplorable housing and lack of sanitation and infrastructure that the Special Rapporteur witnessed in the Roma neighbourhood in Sliven expose children in the most precarious situations to the worst forms of sexual abuse and sexual exploitation. The newly built kindergarten in the neighbourhood in Sliven remains inaccessible to most children who live in illegal settlements and do not have a permanent address, required for registration and for access to basic social services.

25. The Special Rapporteur was also concerned about the lack of oversight of various juvenile delinquency residential care institutions and the failure of the staff to detect and

<sup>10</sup> Center for the Study of Democracy, *Child Trafficking among Vulnerable Roma Communities: Results of Country Studies in Austria, Bulgaria, Greece, Italy, Hungary, Romania and Slovakia* (Sofia, 2015), p. 7.

<sup>11</sup> See UNICEF, *The State of the World's Children 2017: Children in a Digital World* (New York, 2017).

<sup>12</sup> See also UNICEF, *Breaking the Cycle of Exclusion: Roma Children in South East Europe* (Belgrade, 2013).

report – or their ignorance regarding – the numerous allegations of children becoming victims of commercial sexual exploitation by organized criminal groups or individuals purposefully targeting these institutions.

### **III. Measures to combat and prevent the sale and sexual exploitation of children**

26. Bulgaria has achieved significant progress in introducing a comprehensive legislative, policy and institutional framework of child protection. The focus of the child protection system has largely been on the deinstitutionalization of children and the closure of institutions.

27. Despite various positive steps, there is a lack of a comprehensive strategy to tackle effectively the sale and sexual exploitation of children, including their root causes. Challenges that remain include the fragmented development of child protection and administration of child-sensitive justice focusing on prevention, care, rehabilitation and reintegration; insufficient understanding of what constitutes violence against children; a lack of capacity to identify cases of violence; and insufficient cooperation and information-sharing and inadequate follow-up. Other issues are the lack of comprehensive data collection and lack of understanding of the phenomenon and its root causes, compounded by persistent discrimination against marginalized groups, lack of an adequate procedure for identification and referral, poor and prolonged investigations and prosecutions, insufficient cooperation and allocation of necessary budgetary resources, insufficiently trained and remunerated social workers, and poor understanding of the best interests of the child as a primary consideration.

#### **A. Legal framework**

28. Bulgaria has ratified most of the core international human rights treaties, including the Convention on the Rights of the Child and the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography. It has also ratified the Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse (Lanzarote Convention) and the Council of Europe Convention on Action against Trafficking in Human Beings. Bulgaria has not signed or ratified the Optional Protocol to the Convention on the Rights of the Child on communications procedure.

29. The Special Rapporteur was concerned about the Constitutional Court's decision No. 13/2018 of 27 July 2018, in which the Court declared the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence (Istanbul Convention) to be incompatible with the Constitution. She observed during her visit that misinterpretation of the term "gender" had given rise to a hostile environment for organizations working on women's rights and the rights of lesbian, gay, bisexual, transgender and intersex persons, paving the way to homophobia, transphobia and bias against women. The Special Rapporteur was also concerned about the decision of the legislature to amend the Family Allowance Act to link family allowances for children to school attendance, stipulating the circumstances under which monthly family allowances are to be suspended and terminated, including if the child becomes a parent. The European Committee of Social Rights has recently declared these legislative measures to be racially discriminatory, in that the legislation has a disproportionate impact on Roma and on girls.<sup>13</sup>

30. The Special Rapporteur welcomes the Child Protection Act (2000) and its subsequent amendments (2013), establishing child protection measures in relation to begging, prostitution, pornography, sexual abuse, physical and psychological violence and exploitation. The establishment of a coordination mechanism to address child victims or

<sup>13</sup> European Committee of Social Rights, *Equal Rights Trust v. Bulgaria*, Complaint No. 121/2016, Decision on the Merits, 16 October 2018.

children at risk of violence and the new Social Services Act,<sup>14</sup> which includes significant changes to the Social Assistance Act and the Child Protection Act, are also welcome. Of concern, however, is the lack of harmonization between the Child Protection Act and other legislation, such as the Penal Procedure Code, the Persons and Family Act and the Combating Antisocial Behaviour of Minors and Adolescents Act (Juvenile Delinquency Act). Despite efforts to reform the juvenile justice system, there is a significant delay in replacing the old legislation. The Special Rapporteur was told that the delay is partially due to disagreement between some line ministries as to which one should assume responsibility for children in residential care, meaning that children in juvenile delinquency institutions are being deprived of the protection mechanisms available under the Child Protection Act.

31. The Special Rapporteur also welcomes the amendments to the Foreigners Act in 2016 and 2017, establishing a statelessness determination procedure, prohibiting the short-term detention of unaccompanied children and introducing new alternatives to detention for irregular migrants; the decision of the National Council for Child Protection in March 2017, creating a specialized service for the guidance and accommodation of unaccompanied foreign children; and the amendment to the Support and Financial Compensation for Victims of Crime Act in 2016, guaranteeing protection for all victims of trafficking in human beings, regardless of nationality or residential status.

32. She notes with appreciation the amendments to the Penal Procedure Code (2006) and the Penal Code (2009), transposing Directive 2011/92/EU of the European Parliament and of the Council of 13 December 2011 on combating the sexual abuse and sexual exploitation of children and child pornography, which resulted in the inclusion as offences of “creation of pornographic materials”, “fornication”, “copulation”, “sexual intercourse”, “prostitution”, “child pornography” and “grooming”.

33. The Special Rapporteur notes that these amendments, however, lack clear definitions of child prostitution and child pornography in accordance with article 2 (b) and (c) of the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography, which requires these crimes to be explicitly prohibited. The Special Rapporteur notes that sexual exploitation of children is criminalized in relation to the crime of trafficking, and as a separate crime in the Penal Code (arts. 155 (5) (2), 155a, 155b, 155c, 156, 157 and 158a). The Special Rapporteur notes that the abuse of a recognized position of influence or “circle of trust” for sexual abuse committed within the framework of heterosexual or homosexual sexual activity is criminalized by the Penal Code, however, she echoes the recommendation by the Committee of the Parties to the Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse (Lanzarote Committee) that legislation should address all serious harm to the sexual integrity of children and ensure equal sanctions for sexual abuse committed within a heterosexual or homosexual sexual activity.<sup>15</sup>

34. Furthermore, article 159a (3) of the Penal Code criminalizes the trafficking of a pregnant woman for the purposes of selling her child, and articles 182a and 182b explicitly criminalize the sale of children for adoption.

35. The Special Rapporteur notes the disturbing practice under the Juvenile Delinquency Act of 1958 (last amended in 2016) by which minors are placed in a young offenders’ institution, similar to a juvenile prison, for antisocial behaviour such as running away from home, truancy, vagrancy and prostitution. It provides grounds for penalization instead of child protection measures for status offences. This practice has been deemed discriminatory by the Commissioner for Human Rights of the Council of Europe in 2015,<sup>16</sup> and the Committee on the Rights of the Child recommended the State party to reform the Juvenile Delinquency Act and the Penal Procedure Code with a view to withdrawing the notion of

<sup>14</sup> The entry into force of this act, initially set at January 2020, was postponed for six months.

<sup>15</sup> Lanzarote Committee, *Protection of Children against Sexual Abuse in the Circle of Trust: The Framework – 1st Implementation Report* (Strasbourg, Council of Europe, 2017).

<sup>16</sup> Council of Europe, “Report by Nils Muižnieks, Commissioner for Human Rights of the Council of Europe, following his visit to Bulgaria from 9 to 11 February 2015”, document CommDH(2015)12, para. 61.



anti-social behaviour (CRC/C/BGR/CO/2, para. 69 (b)). Furthermore, as noted by the European Court of Human Rights, Bulgarian law does not contain a precise definition of “anti-social behaviour” or an exhaustive list of acts characterized as such.<sup>17</sup>

36. The Special Rapporteur welcomes the amendment in 2017 to the Penal Procedure Code following the need to transpose Directive 2012/29/EU of the European Parliament and of the Council of 25 October 2012 establishing minimum standards on the rights, support and protection of victims of crime, including conducting the interrogation of child witnesses in specialized facilities called “blue rooms”. Despite these measures, the issue of child victims has not been fully integrated in the Penal Procedure Code and the legal safeguards of children’s human rights are not fully protected.

37. Bulgaria has harmonized its legislation on adoption, but concerns remain regarding the provisions outlined in article 3 of the Optional Protocol concerning all elements relating to the sale of children for adoption. The Family Code does not give due consideration to a child’s opinion in adoption proceedings, and the consent of a child under the age of 14 years is not required for adoption. The Child Protection Act (art. 15 (1)) provides for a mandatory hearing if the child is aged 10 years or over, unless it violates their best interests. However, if the child is under the age of 10 years, there is no legal requirement to consider his or her opinion. Parents under the age of 14 years who are involved in adoption proceedings are not required to give consent. Although there have been some developments in legislation on the legal representation of the child, this opportunity is rarely used. When the best interests of the child are opposed to parental will, legal safeguards are hardly applied.

38. The Special Rapporteur is concerned that there is no comprehensive regulation of commercial surrogacy arrangements. The lack of detailed regulation, in particular the commercial aspects and the lack of control over clinics that provide surrogacy services, has led to irregularities and protection gaps.

## **B. Institutional framework**

39. The main responsibility for the assessment of a child’s situation and protection measures lies with child protection units, which are the local departments within the Social Assistance Agency under the Ministry of Labour and Social Policy. There are approximately 150 units all over the country, comprising 9 in Sofia and 1 in almost every city or municipal centre. Each of the 265 municipalities, through a children’s commission chaired by the municipality’s mayor, has advisory functions in the coordination of child protection initiatives. Each unit works with children in its territory, and cases are referred to another unit when a child moves, often leading to loss of information. The Social Services Act (2019) envisages the creation of an agency for the quality of social services, with monitoring functions over the State Agency for Child Protection and the Social Assistance Agency.

40. Efforts to prevent the sexual exploitation and sexual abuse of children are coordinated by two national mechanisms: the coordination mechanism for cooperation in cases of children who are victims of or at risk of violence and in cases of crisis intervention; and the coordination mechanism for the referral, care and protection of unaccompanied children and child victims of trafficking returning from abroad. The former, adopted as an interministerial cooperation mechanism, supplements the Child Protection Act. Its aim is to ensure prompt action and a multidisciplinary approach in cases of violence against children, and to assign and regulate the specific responsibilities of protection actors. Given the multiple oversight mechanisms, overlapping responsibilities and ambiguous roles, child protection efforts are often not coordinated. A relatively small number of social services are monitored, and their focus is mostly on the alignment of administrative procedures.

41. The Special Rapporteur was informed that issues persisted regarding the functioning of the coordination mechanism, owing to the lack of multidisciplinary teams and the fact that the mechanism could be triggered by the child protection units only, which were

<sup>17</sup> European Court of Human Rights, *Case of A. and Others v. Bulgaria*.

severely underfunded and understaffed with high staff turnover and instances of burnout. Furthermore, the staff of the child protection units lack expertise to assess and identify cases of sexual abuse and exploitation. It is reported that the mechanism is not triggered every time there is a case of violence, its implementation varies across regions and there are gaps in reporting and the way in which the composition and participation of the main stakeholders is defined and implemented. According to UNICEF, there is an overall lack of clarity on the cross-sectoral nature of the child protection system and its main functions and responsibilities for the coordination of policies, child protection and provision of care and services.<sup>18</sup> The Special Rapporteur was told that as of 2020, this mechanism would become legally binding.

42. The National Commission for Combating Trafficking in Human Beings was established by virtue of the Combating Trafficking in Human Beings Act. It is responsible for the implementation of the national policy and strategy on combating trafficking in human beings, and protects, assists and reintegrates victims of trafficking. While the State Agency for Child Protection plays a coordinating role in the implementation of national measures against trafficking in children, the National Commission and its local representatives play a central role in the national coordination mechanism for the referral, care and protection of unaccompanied children and child victims of trafficking repatriated to Bulgaria. Cases are usually taken up first by border police officers, who inform the local social assistance directorate and the relevant child protection unit.

43. Regarding an independent child rights monitoring mechanism, in 2016, following the amendment to the Ombudsman Act, a child rights directorate was established consisting of two persons. There is still no designated deputy ombudsman responsible for children. The staff members lack training and capacity to proactively monitor and follow up on cases. Due to reduced budget for a second consecutive year, the number of the monitoring visits has decreased.

44. The Bulgarian Safer Internet Centre, established in 2005, works for the protection and empowerment of children and young people online by raising awareness, providing training and reporting cases of online sexual abuse and exploitation of minors.

### **C. National policies, strategies and programmes**

45. The National Programme for the Prevention of Violence against and Abuse of Children (2017–2020) and the action plan for its implementation (2017–2018) prioritize the prevention of all forms of violence against children, including sexual violence, sexual abuse and sexual exploitation of children, by enhancing the capacity of professionals and improving inter-institutional cooperation and coordination. The national helpline for children (116 111), managed by the State Agency for Child Protection and operated by the Animus Association Foundation, provides children with 24-hour toll-free access. However, there is no specialized counselling or services for lesbian, gay, bisexual, transgender and intersex children. A non-governmental organization (NGO) called the Single Step Foundation has opened a chat service for lesbian, gay, bisexual, transgender and intersex teenagers and is hoping to launch a helpline and a community centre, but there is no information about the activities' outcome, referral procedures or sustainability.

46. The National Strategy for the Child (2008–2018) and its successor draft strategy (2019–2030) are aimed at improving coordination, and addresses the protection of children from all forms of violence and exploitation as a separate priority. The new strategy is currently pending owing to ongoing public debates spearheaded by certain populist movements and representatives of the Orthodox Church, which stress that, because of their traditional family values, they are opposed to considering children as rights holders, including those belonging to ethnic minorities and lesbian, gay, bisexual, transgender and intersex children. The Special Rapporteur is of the view that these attitudes might further exacerbate the existing segregation, neglect and isolation of the Roma community and halt

<sup>18</sup> UNICEF, *Analysis of the Child Protection System in Bulgaria* (forthcoming).

the State-supported desegregation efforts aimed at building trust, confidence and understanding throughout all communities.

47. Additionally, the annually adopted National Programme for Child Protection regulates the obligations of all State institutions in the area of child protection. A national strategy entitled “Vision for the deinstitutionalization of children in the Republic of Bulgaria” (2010–2025) defines a policy for transitioning from institutional to community care and prescribes a road map of successive disinvestment from non-family-based care structures. In October 2016, a second action plan was adopted with the objective of closing down all 137 childcare institutions within 15 years and reintegrating children into their biological families. According to UNICEF, deinstitutionalization has largely focused on quantity rather than quality.

48. A national strategy for preventing and combating trafficking in human beings and protecting its victims (2017–2021) establishes priorities and objectives related to effective and long-term response to the crime and its consequences. Annual programmes are foreseen to operationalize the strategy and elaborate on State and non-State actors’ commitments.

49. In addition to the national strategy for reducing poverty and promoting social inclusion (2020), Bulgaria has adopted a national strategy for the integration of Roma people (2012–2020). The latter has been criticized for failing to achieve short-term goals, such as improving the housing of Roma living in settlements. It is also unclear whether there has been progress in mapping vulnerable Roma communities for targeted prevention campaigns, as part of the 2017 national programme of the National Commission for Combating Trafficking in Human Beings.

## 1. Investigation and prosecution

50. The Child Protection Act establishes mandatory reporting by any person who becomes aware of a child in need of protection. The national toll-free helpline managed by the State Agency for Child Protection is relatively widely known, but lacks capacity, including with respect to training, follow-up to the reported cases and outreach to vulnerable and marginalized children.

51. According to the 2018 annual report of the Ombudsman, of the 362 complaints concerning the rights of the child received in 2018, 101 were related to the protection of children’s rights in the family environment.<sup>19</sup> In the first quarter of 2018, out of 44 consultations through the helpline, 30 cases concerning sexual abuse (of which 5 concerned sexual abuse of boys) were referred to child protection officials. Since 2016, 39 cases of sexual violence have been referred for investigation. The annual reports of the Office of the Prosecutor General do not contain information on the number of convictions on charges of child marriage, child trafficking or sale of child abuse material. Cases of sexual exploitation of children are not effectively investigated, sanctioned or prosecuted, resulting in low accountability for these crimes. In the rare instances when complaints are lodged with the police, the complaints are not duly acted upon, gathering of compelling evidence is delayed, and investigation and prosecution are stalled, resulting in victims or witnesses withdrawing their complaints. The Special Rapporteur on violence against women has also observed that one reason for low reporting rates was the requirement to prove systematic physical, psychological or sexual violence.<sup>20</sup>

52. In addition, investigations lack a child-sensitive approach and specialized police officers, prosecutors and judges. Some cases are reportedly dismissed because statements by child victims are allegedly inconsistent. The Office of the Prosecutor General has reportedly issued an ordinance that requires a victim to prove three episodes of physical, psychological or sexual violence for a criminal case to be opened. Child survivors remain highly vulnerable to revictimization and are often disbelieved, or blamed for falling victim to sexual violence. The adjudication process does not provide sufficient guarantees for

<sup>19</sup> Ombudsman of the Republic of Bulgaria, *Summary of the Annual Report of the Work of the Ombudsman 2018* (Sofia, 2019), p. 27.

<sup>20</sup> OHCHR, “Official visit to Bulgaria, 14–21 October 2019 by United Nations Special Rapporteur on violence against women, its causes and consequences, Dubravka Šimonović”, 21 October 2019.

redress. The Special Rapporteur was told of a lack of sufficient synchronization in legislation, especially regarding interaction and coordination between child protection services and the justice system. The lack of prompt and effective investigation into the allegations of sexual abuse featured in the European Court of Human Rights cases of *M.P. and others v. Bulgaria* and *M.C. v. Bulgaria*.<sup>21</sup> In the dissenting opinion to the Court's judgment in the case of *D.L. v. Bulgaria*, the judge noted the following:

... [I]t is very hard to dispel the impression that the applicant, a victim, from the age of twelve, of grooming, was being punished for the crimes of others. There is no indication in the file that those responsible for or involved in her grooming and subsequent prostitution were investigated, charged or brought to justice. Instead, the applicant repeatedly found herself before the criminal branch of the District Court, first the subject of barring orders ..., but subsequently of a detention order, confining her ... to the Podem centre.<sup>22</sup>

53. The Special Rapporteur notes the establishment of child-friendly rooms for hearings, also known as "blue rooms". Often they are seen as the only prerequisite for the application of child-friendly justice, without meeting other requirements, such as interviewing by a specialized professional following an evidence-based protocol. Further efforts must be made to ensure child-sensitive procedures, including reducing the number of interviews, ensuring that interviews are conducted by adequately trained judicial staff and ensuring the presence of other professionals such as trained child psychologists and social workers, to prevent revictimization and traumatization.

54. The detection, investigation and prosecution of trafficking in human beings come under the authority of the Ministry of the Interior and the Office of the Prosecutor General. The State Agency for Child Protection holds the overall responsibility, in compliance with the Child Protection Act and as per the national referral mechanism for victims of trafficking.

55. Issues pertaining to the harmful content of child abuse material, specifically online child pornography, are monitored by NGOs such as the Bulgarian Safer Internet Centre and Loveguide.<sup>23</sup> while reported criminal activities concerning child pornography are investigated by the cybercrime unit at the General Directorate for Combating Organized Crime, of the Ministry of the Interior. In 2008, the cybercrimes unit of the police noted a steady rise in cybercrimes against children, many related to the distribution of child pornography, owing to growing Internet use across the country.<sup>24</sup> While recent statistics are lacking, in October 2011, 20 men were arrested for participating in a child pornography ring, and in February 2012, 9 men were arrested for distributing child pornography and more than 1,000 gigabytes of pornographic material was seized. In both instances, children exploited were reportedly as young as 2 years old. In 2011, out of 751 reports received through the helpline, 146 concerned illegal or harmful content and conduct online. Twenty were classified as child pornography, 4 as erotica and 7 as grooming.<sup>25</sup> In 2018, five men were detained for spreading videos of child sexual exploitation online. At one of the searched addresses, 30 per cent of video files found were reportedly of babies up to 3 months old and contained brutal scenes of child sexual exploitation.

56. Regarding the sale of babies, the low risk of detection, the difficulty of prosecution and mild sentences make it a profitable business for traffickers and others involved. Prosecutors reportedly settle cases with traffickers who agree to plead guilty and in return

<sup>21</sup> European Court of Human Rights, *Case of M.P. and Others v. Bulgaria*, Application No. 22457/08, Judgment, 15 November 2011, and *Case of M.C. v. Bulgaria*, Application No. 39272/98, Judgment, 4 December 2004.

<sup>22</sup> European Court of Human Rights, *Case of D.L. v. Bulgaria*, Dissenting Opinion of Judge O'Leary, para. 9.

<sup>23</sup> See <https://loveguide.bg>.

<sup>24</sup> Foundation ECPAT International, *Global Monitoring: Status of Action against Commercial Sexual Exploitation of Children – Bulgaria*, 2nd ed. (Bangkok, 2013). Available at [www.ecpat.org/wp-content/uploads/legacy/A4A\\_V2\\_EU\\_Bulgaria.pdf](http://www.ecpat.org/wp-content/uploads/legacy/A4A_V2_EU_Bulgaria.pdf).

<sup>25</sup> *Ibid.*

often receive suspended sentences of less than three years. Only three people are known to be serving sentences for the sale of babies, according to the Ministry of Justice.

## 2. Care, recovery and reintegration

57. Data are lacking on support received by victims and programmes offering psychological help for victims of sexual abuse are limited. Of 23 State-funded crisis centres, 19 are for child victims of trafficking and underage offenders, with a total capacity of 246 places. Children can stay for up to six months, and as of 2019, 140 children were accommodated. Staff are often overburdened and manage many issues, including enrolment in the education system, health care and psychological support and recovery. Community support centres, totalling 141 in 2019 and run by NGOs or municipalities, also provide social and psychological counselling for up to six months. However, not all centres are equipped to work with cases of violence: they suffer from poor funding, inadequate staffing and training and lack of monitoring services and follow-up on cases.

58. Following her visit to the Podem residential centre, the Special Rapporteur observed an unfavourable environment, tense atmosphere, limited psychological counselling and inadequate activities for children. Some underage girls were too intimate with the male personnel. Lesbian, gay, bisexual, transgender and intersex children were placed in the residential centre for so-called antisocial behaviour without any prior assessment as to their protection needs. There were disturbing reports of children being at risk of sexual abuse and exploitation outside the institution: the security surrounding the centre was virtually non-existent and the Special Rapporteur was told that some children regularly left the institution and got involved in sexual commercial exploitation. In the dissenting opinion to the judgment of the European Court of Human Rights in the case of *D.L. v. Bulgaria*, the judge noted the underlying punitive or criminal character of the applicant's detention and the inadequacy of the network of closed educational institutions, including the Podem centre, from the perspective of educational provision and the material conditions of life for detainees. Since 2009, the State Agency for Child Protection and the Ombudsman have repeatedly highlighted problems, including the unsuitability of educational programmes for vulnerable children, the lack of individualized plans, the lack of contact with families, the prevalence of violence and the insufficiently trained personnel.

59. While the number of unaccompanied children arriving in Bulgaria decreased in 2017 and 2018, and progress has been made in addressing some gaps, challenges remain. There is no system to provide specialized care and support to child victims of trafficking, who are often placed in sociopedagogical boarding schools and correctional centres (CRC/C/BGR/CO/3-5, para. 56). In early 2016, the National Commission for Combating Trafficking in Human Beings launched five specialized services for victims of trafficking: three shelters in Varna and Burgas and two consultation services. However, challenges remain: there is a lack of adequate identification and referral procedures upon apprehension at the border, reluctance from residential-type social services to accommodate unaccompanied children, and no specialized interim care facility, which further impedes timely and adequate identification and protection of children's needs. Children are incorrectly registered as accompanied or as adults and placed in detention, in contradiction of the 2017 ban on detention. Almost all unaccompanied children are attached to unrelated adults or representatives from the municipality, without any background checks or supervision. Identification and referral is impeded owing to the absence of an age-assessment procedure. Practical implementation of various updated standard operating procedures on identifying, responding to and preventing sexual and gender-based violence, although adopted in 2018, is not monitored or assessed. Legal representation is offered by NGOs on a pro bono basis, but their personnel is not necessarily trained to work on such cases.

60. The Government is currently establishing an age-assessment procedure and has agreed to create an interim care facility for the identification and temporary care of unaccompanied migrant or asylum-seeking children. While external funds have been obtained, the project's implementation has been delayed because of resistance from municipalities to hosting a facility on their territory. Recent legislative amendments granting residence permits to unaccompanied children until they reach the age of 18 years

are a welcome move. However, the absence of alternative care arrangements will limit the effectiveness of these amendments. Although a coordination mechanism outlining the roles and responsibilities of various institutions was agreed upon in July 2017, this mechanism has yet to be formally adopted.

61. The Special Rapporteur concludes that although much has been done to provide victims with first-hand support, progress concerning the integration, long-term care, specialized rehabilitation and recovery of child victims is lacking. Child-centred specialized training that includes a gender perspective is necessary in order to build a pool of professionals capable of working with severe cases of abuse in a holistic manner. The lack of appropriate reception arrangements upon arrival at the border, the lack of an adequate age- and gender-appropriate referral procedure upon apprehension following irregular entry or stay, the lack of integration support and the lack of prospects for the future contribute to the high absconding rate of unaccompanied children and expose them to the risk of exploitation.

### **3. Child participation and empowerment**

62. Although the Child Protection Act (art. 15 (1)) states that all children aged 10 years or over must be given a hearing in all administrative or judicial proceedings concerning their life and well-being,<sup>26</sup> the exercise of this right remains at the discretion of the professionals involved in each case.<sup>27</sup> The meaningful participation of children in decision-making and the right of the child to be heard remains one of the most disputed and neglected rights, owing to patriarchal social norms and age-related stereotypes. There is also a lack of general understanding of the concept of children's evolving capacities, in the absence of guidance on how to ensure the meaningful participation of children in decision-making.

### **4. Prevention**

63. Although the National Programme for the Prevention of Violence against and Abuse of Children (2017–2020) and the corresponding action plan (2017–2018) are in place, these plans are focused on procedural response aspects rather than on early prevention and protection of children. While the responsibility for child protection and prevention are centralized, their provision is provided by local services and public administrations linked to the municipalities, which raises issues of coordination and coherence. The implementation of multidisciplinary team approaches comprising social workers, educationalists, psychologists and health practitioners is not systematic throughout all municipalities. Services are understaffed and underfunded, and social workers face huge workloads and lack the resources necessary to respond effectively. The national coordination mechanism for combating violence against children lacks efficient identification and communication mechanisms; it has poor intersectoral cooperation between the health-care, education and social services systems; the capacities of its multidisciplinary teams are insufficient; and it lacks trained specialists from the child protection system, the police and the justice system.

64. Although the Government has taken several capacity-building measures to improve inter-institutional cooperation and coordination, there has been no joint training for representatives of all the coordination mechanisms to streamline common understanding of intervention strategies. The Special Rapporteur repeatedly heard about the challenges faced by social workers regarding their overall understanding of the rights, needs and protection risks of child victims, and about a general shortage of social workers specialized in child protection. Social workers are perceived as administrators of cases rather than case managers. The general education requirement for social workers is high-school level – although most hold university degrees unrelated to social work – and the majority have an average of more than three years' experience. High staff turnover and low salaries are of concern. There is a continuing need for training for professionals dealing with cases of

<sup>26</sup> The granting of hearings for children below the age of 10 years is discretionary (art. 15 (2)).

<sup>27</sup> UNICEF, "UNICEF Country Office in Bulgaria: strategy note for the country programme 2018–2022".

violence and sexual exploitation of children. There are also concerns regarding the lack of methodology to assess the workload and performance of social workers and the lack of properly functioning information management systems for child protection cases. Although there is legislation that requires background checks for anyone working with minors and obliges organizations to follow a code of conduct for professionals working with children, there is a need to ensure that these provisions are implemented and monitored systematically, especially in residential care institutions.

65. Regarding preventive programmes and services, civil society organizations have conducted various initiatives on prevention and reaction and on the development and provision of innovative social services that are better than those provided by municipalities. For example, the regional programme on prevention of sexual abuse and exploitation of the Social Activities and Practice Institute provides a comprehensive approach for tackling child sexual exploitation. Activities include building resilience for young children on sexual abuse and conducting educational meetings with parents; explaining the risks of sexual exploitation online and offline, their consequences, and methods used by perpetrators; providing information on resources to run preventive activities with adolescents; and conducting public awareness campaigns. The Animus Association Foundation runs projects including one that ended in 2019 entitled “Support and concern for boys surviving sexual violence”, and one aimed at protecting children through new information technology, in particular children separated from their parents and growing up in institutions in Bulgaria and Romania. The Vselena Centre for Victims of Sexual Violence provides multidisciplinary care for victims of sexual violence and training for professionals on the prevention and identification of violence.<sup>28</sup>

66. Regarding efforts to prevent online child sexual abuse, the cybercrime unit has a group dealing with online sexual exploitation of children. The group is a member of the working group on child sexual exploitation under the European Multidisciplinary Platform against Criminal Threats of the European Union Agency for Law Enforcement Cooperation (Europol); that working group is responsible for creating annual strategic plans and links to the International Child Sexual Exploitation image database of the International Criminal Police Organization (INTERPOL) with a functional victim identification feature. The cybercrimes unit also has filtering software for sites containing child sexual exploitation material and cooperates with seven major Internet providers that are connected to the specialized software. The unit has also embarked on an awareness-raising campaign and Internet safety modules on topics such as cyberbullying and online grooming. Despite various such awareness-raising campaigns, peer-to-peer education and measures undertaken to enhance digital literacy, the Special Rapporteur notes that these materials and tools do not reach vulnerable children outside of the educational setting.

67. Despite various measures to address the reproductive health of adolescents through its national programme for sexual and reproductive health (2013–2017) and the recent efforts of NGOs to advocate comprehensive sexual and reproductive health education in primary and secondary schools and among vulnerable communities, efforts have been circumvented and criticized by far-right movements. Such efforts are denounced as attempts to strip parents of their rights over children and are feared as risking the early sexual liberation of children. As also observed by the Special Rapporteur on violence against women, the campaign against the ratification of the Istanbul Convention led to the creation of an “anti-gender movement” that resulted in attacks on women and on all those providing services to victims of violence.

68. The Special Rapporteur concludes that there is more to be done regarding prevention. The National Commission for Combating Trafficking in Human Beings has taken steps to conduct specialized training and workshops on the identification and referral of cases of trafficking in human beings, including for investigators, magistrates, social workers, labour mediators and local anti-trafficking administrations. Several awareness-raising and communication campaigns have been completed at national and local levels, but their impact is unclear. There are discrepancies in the capacity-building efforts and regarding a common understanding of the needs and protection requirements of child

<sup>28</sup> See <http://demetra-bg.org/center-universe> (in Bulgarian only).

victims among different agencies and professionals working with child survivors. This often results in poorly informed decisions and inadequate provision of long-term support for children. According to interlocutors, there is a need for targeted national campaigns to change the public attitude that children are passive objects of intervention or possessions of their families.

69. Prevention measures must be based on accurate data. Data collection and coordination is largely inconsistent and continues to be a challenge, owing to the lack of a centralized database and of uniform methods for collecting and analysing information. A large amount of the information in the child protection sector is dispersed among various institutions responsible for child-related policies. There are some discrepancies between data collected by NGOs and the official data in the child protection system. It is of utmost importance that a proper system for comprehensive data gathering is established so that analyses can inform policy development and preventive strategies.

70. The existence of numerous coordinating entities makes sustained and coherent coordination difficult. Coordination is hampered by the lack of synchronization between child protection actors involved in the identification and referral of cases. The Special Rapporteur was told that the State Agency for Child Protection had neither the means to coordinate nor direct supervision over the services provided and placement decisions made by the staff of the Social Assistance Agency. Despite the introduction of the coordination mechanism for cooperation in cases of children who are victims of or at risk of violence and in cases of crisis intervention, the lack of data sharing between child protection services, the police and the judiciary remains an issue. This has a direct impact on ensuring holistic interventions, the provision of long-term care and rehabilitation and accessible and sustainable counselling and follow-up for child victims of sexual abuse.

## **IV. Conclusions and recommendations**

### **A. Conclusions**

71. **The Special Rapporteur welcomes the legislative, institutional and policy measures taken to improve the child protection system and conclude the deinstitutionalization process. She also notes the efforts made to combat trafficking in children and the progress achieved regarding unaccompanied and asylum-seeking children. Significant work still remains to put prevention, care, recovery and integration at the forefront of child protection policies, dedicate adequate resources to tackle and eradicate the root causes and risk factors of the sale and sexual exploitation of the most vulnerable children, and provide them with appropriate care, recovery and rehabilitation. There is also a need to accelerate the reform of the juvenile justice system, improve procedures for identifying and referring children and ensure coordination within child protection services.**

72. **Child protection has been largely driven by fragmented reforms and a poorly coordinated child protection system. The care and recovery services provided to child victims suffer from insufficient funding, inadequate staffing and training, lack of oversight of performance and poorly collected and poorly centralized data. Other discrepancies pertain to insufficient funding of child protection systems focusing on children at risk, a lack of specialized support services and of a workforce trained to deal with cases of sexual abuse, and a lack of common understanding among various stakeholders on the provision of protection measures, care and recovery. There are concerns regarding the lack of child-friendly investigation procedures, leading to revictimization; the weak capacity to detect and report cases; and the inadequate protection of children in residential care. Traditional gender roles, the lack of a gender perspective in various interventions and a reluctance to report sexual abuse committed in the inner circle of trust contribute to low reporting.**



## **B. Recommendations**

73. On the basis of the above findings, and in a spirit of cooperation and dialogue, the Special Rapporteur offers the following recommendations to the Government of Bulgaria.

74. Concerning the legislative, institutional and policy framework, the Government should:

(a) Ratify the Istanbul Convention and the Optional Protocol to the Convention on the Rights of the Child on a communications procedure;

(b) Repeal the amendments to the Family Allowance Act concerning the suspension or the termination of family allowances if the child stops attending school or when the minor becomes a parent;

(c) Expedite efforts to reform the juvenile justice legislation and practice; and promote better regulation of child-friendly judicial proceedings, including scaling up child-friendly “blue rooms”;

(d) Ensure full compliance with articles 2 and 3 of the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography by including all forms of the sale and sexual exploitation of children as separate crimes in the Penal Code, distinct from trafficking, and by incorporating into national legislation the full definitions of the sale of children, child prostitution and child pornography contained in the Optional Protocol;

(e) Abolish the legal concepts of antisocial behaviour and status offences; and amend the Juvenile Delinquency Act and the other relevant legislation to ensure that all children below the minimum age of criminal responsibility who have committed antisocial acts are entitled to and have access to child protection and support and social services;

(f) Introduce legislation to criminalize and formulate policies to prevent the sexual abuse of children within the circle of trust;

(g) Amend legislation to establish the minimum age for marriage at 18 years without exception and investigate and prosecute cases of child marriage;

(h) Develop standard operating procedures and train social workers regarding the consultation of children of all ages, according to their evolving capacities, in all judicial, administrative and other decisions affecting them, and amend the Family Code to ensure that children under the age of 14 years are consulted in all decisions affecting their lives, including in cases of adoption;

(i) Adopt comprehensive regulations to govern the practice of commercial surrogacy arrangements based on the best interests of the child, and to protect surrogate mothers from exploitation; and set up a regulatory system for clinics to ensure that surrogacy arrangements are consistent with the rights and best interests of the child;

(j) Introduce legally binding provisions to ensure better coordination among the various child protection actors, municipalities and service providers, and improve the procedural rules and functioning of the multidisciplinary teams in order to focus on the quality of services provided, with a focus on prevention, detection and referral of cases;

(k) Strengthen the victim referral mechanism by ensuring coordination among law enforcement personnel, social workers and service providers; support social workers in ensuring the best interests of the child; and adopt a systemic approach with comprehensive rehabilitation and reintegration of child victims as the ultimate goal through the provision of multidisciplinary services.

75. Concerning investigation, prosecution and sanctioning, the Government should:

(a) Strengthen efforts to detect, investigate, prosecute and sanction the crimes of the sale and sexual exploitation of children, and ensure that investigation procedures are child-sensitive in order to prevent revictimization and further traumatization;

(b) Ensure the systematic training of law enforcement agents on child-friendly criminal proceedings, increase their capacity to monitor encrypted paedophile networks and regulate their access to retained IP addresses for the purposes of obtaining evidence;

(c) Continue efforts to curb the sale of babies and illegal adoption by taking comprehensive measures to address the root causes, including poverty and segregation in communities where the practice occurs;

(d) Ensure the best interests of the child through ethical reporting by the media;

(e) Ensure that a child is not confronted with the defendant during the proceedings, will not be exposed to further contact with the perpetrator and, where possible, obviate the need for child victims to be physically present during the proceedings by ensuring appropriate communications technology in the courtroom;

(f) Ensure the availability and appropriate use of “blue rooms” nationwide for child-friendly interrogation, and encourage coordination between child protection departments, investigators, judges and prosecutors to ensure child-friendly proceedings (in accordance with general comment No. 24 (2019) on children’s rights in the child justice system of the Committee on the Rights of the Child).

76. Concerning the prevention and eradication of the sale and sexual exploitation of children, the Government should:

(a) Conduct comprehensive research and mapping of different forms of the sale and sexual and labour exploitation of children, identifying the root causes and risk factors and how they affect the vulnerable groups, and adopt targeted measures to ensure that social benefits reach those in need, in particular members of the Roma and Turkish communities;

(b) Create a centralized, updated and disaggregated database on different forms of sexual abuse and exploitation of children, including child marriage, with a special focus of children in need of special protection; and improve data collection and information-sharing systems on the number of cases reported, investigated and prosecuted and judgments issued and the redress provided to victims, disaggregated by the nature of the offence, the category of perpetrator and the characteristics of the victims;

(c) Strengthen the central role of the State Agency for Child Protection in the coordination of child protection policy, the oversight of the policy and delivery of services, and the quality control of case management, with sufficient funding and resources allocated to addressing the root causes and risk factors;

(d) Invest in the training of social workers with a focus on gender-based violence and sexual abuse and exploitation, and make it an officially recognized profession with decent pay; increase the minimum qualification requirements for social workers working with children to include a minimum of a university degree or relevant work experience, and introduce training schedules; and work with universities offering social work programmes to increase the appeal of the profession;

(e) Carry out awareness-raising to break the traditional gender roles in communities and address reluctance to intervene in cases of violence against children in the family, currently considered a private matter;

(f) Develop campaigns to counter hate speech, stigma and discrimination against lesbian, gay, bisexual, transgender and intersex children, asylum-seeking and refugee children and Roma children;

(g) Continue efforts in awareness-raising on the risks of sexual abuse and sexual exploitation, including within the circle of trust among children at risk and including during primary and secondary education;

(h) Raise awareness among children, including children in marginalized communities and children affected by the refugee crisis, about the reporting and counselling mechanisms available;

(i) Ensure mandatory background screening of anyone dealing with children;

(j) Increase awareness-raising activities targeting vulnerable communities, the tourism industry and employment agencies to effectively tackle impunity and reach out to victims;

(k) Train teachers on sexual and reproductive health education and ensure that awareness-raising and comprehensive, age-appropriate sexual and reproductive health education, including on the effects of child marriage, is accessible to out-of-school children;

(l) Ensure easy access to child-sensitive justice mechanisms for complaints, reporting and referral, allowing victims to report abuse without fear of intimidation, stigma or revictimization; and increase the staffing capacity of the helpline, develop tools and procedures to follow-up on reported cases and improve access to the helpline for the most vulnerable and marginalized children;

(m) Establish regular monitoring and evaluation processes, in order to assess the impact of preventive interventions and ensure that measures contribute to reducing the exposure of children and caregivers to risk and victimization.

77. Concerning the care, recovery and reintegration of child victims, the Government should:

(a) Evaluate the accessibility and quality of existing services and their impact on care, recovery and reintegration, and establish long-term specialized medical and psychological care that is rights-based and child-centred;

(b) Take measures to ensure appropriate specialized training, particularly legal and psychological training, for persons working with child victims, including those responsible for detecting online child abuse;

(c) Ensure that unaccompanied and separated asylum-seeking and refugee children receive full access to safe and age- and gender-appropriate care arrangements, particularly within the national child protection system, and to services such as health care and psychological assistance that are adapted to their needs;

(d) Improve the initial identification and referral procedures to ensure that unaccompanied children are not placed in detention, including by ensuring interpretation and the presence of social workers.

78. Concerning cooperation and partnership, the Government should:

(a) Expand bilateral, regional and international agreements and partnerships with other countries of origin, transit and destination to prevent and combat the sale and sexual exploitation of children;

(b) Raise awareness among the media and encourage respect for the right of child victims to privacy;

(c) Coordinate efforts with NGOs that work to detect, receive and refer cases of sexual abuse and exploitation of children; ensure sufficient State funding for civil society and other service providers to maintain sustainable and high-quality services; work with communities to prevent school dropout and child marriage; and develop innovative social services in care, recovery and rehabilitation;

(d) Intensify efforts to regularly monitor the activities of employment agencies, private individuals and the entertainment industry to detect cases of sexual

**exploitation of children; and raise awareness among hotels and encourage them to report suspected cases of the sale and sexual exploitation of children;**

**(e) Adopt the necessary measures, including through international technical assistance, to achieve targets 5.3, 8.7 and 16.2 of the Sustainable Development Goals.**

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