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مجلس حقوق الإنسان
الدورة الرابعة
البند ٢ من جدول الأعمال

تنفيذ قرار الجمعية العامة ٢٥١/٦٠ المؤرخ ١٥ آذار/مارس ٢٠٠٦
المعنون "مجلس حقوق الإنسان"

مذكرة شفوية مؤرخة ٢١ آذار/مارس ٢٠٠٧ موجهة من البعثة الدائمة لأوكرانيا لدى مكتب
الأمم المتحدة في جنيف إلى مفوضية الأمم المتحدة السامية لحقوق الإنسان

تُهدي البعثة الدائمة لأوكرانيا لدى مكتب الأمم المتحدة والمنظمات الدولية الأخرى في جنيف تحياتها إلى
مفوضية الأمم المتحدة السامية لحقوق الإنسان، وتشرف بأن تُحيل إليها طياً تعليقات وملاحظات وفد أوكرانيا
على تقرير (A/HRC/4/31/Add.2) المقرر الخاص المعني ببيع الأطفال واستغلالهم في البغاء وفي إنتاج المواد
الإباحية، السيد خوان ميغيل بوتيه، عن البعثة التي قام بها إلى أوكرانيا في الفترة من ٢٢ إلى ٢٧ تشرين
الأول/أكتوبر ٢٠٠٦.

وترجو البعثة الدائمة لأوكرانيا التفضل بتعميم الوثيقة المرفقة* بوصفها وثيقة رسمية من وثائق الدورة
الرابعة لمجلس حقوق الإنسان.

* استُنسخت في المرفق كما وردت، باللغة التي قدمت بها فقط.

Annex

Comments and observations of the delegation of Ukraine regarding the report (A/HRC/4/31/Add.2) of the Special Rapporteur on the sale of children, child prostitution and child pornography, Juan Miguel Petit, concerning his mission to Ukraine (22-27 October 2006)

The Delegation of Ukraine thanks Mr. Juan Miguel Petit, the Special Rapporteur on the sale of children, child prostitution and child pornography for the work done during his visit to Ukraine and his endeavors to contribute to enhancing the system of child protection in Ukraine.

This was the first such visit after Ukraine, in fulfillment of pledge made during the election to the Human Rights Council, extended its standing invitation to all HRC special procedures last year. Therefore the Government of Ukraine paid special attention to this visit and tried to provide all necessary assistance and cooperation to the Special Rapporteur.

The sale of children, child prostitution and child pornography is a worldwide problem. Like many countries Ukraine has not escaped it due to number of internal as well as external factors. This problem is not of massive spread in Ukraine but this does not render it less important. The Government and society of Ukraine are consolidated in their efforts to provide proper and efficient protection of children's rights. The Special Rapporteur mentioned many positive examples in this regard.

At the same time the analysis of some of the report's statements and conclusions gives ground for some doubts as to whether the Special Rapporteur applied a correct methodology while evaluating statistical data. This in turn raises doubts as to the picture presented in Chapter VI of the Report in relation to the real situation.

Stating the presence in Ukraine of such phenomena as street children, trafficking, child prostitution and pornography, the Special Rapporteur operates the percentage data without mentioning any base numerical data or indicating a certain territory (paras. 47, 48, 54). Thus it remains unknown what is the level of representativeness of this data and whether this data concerns Kyiv alone, certain regions of the country or Ukraine as a whole.

Pursuant to Commission resolutions 1993/82 and 1994/92 the Special Rapporteur was supported to use "credible and reliable information", however, instead of statistical data, he often applies estimation data and does not always cite information sources (paras. 41, 46).

In certain cases, evaluations are unsupported by facts or statistical data (para 45, 56, 57). On the other hand, some of the statistical data on the same issue are not coherent and inconsistent with the Special Rapporteur conclusions. For example, referring to the statistical data he notes, that among 3,000 victims of trafficking which have received reintegration assistance from the International Organization for Migration since 2000, 120 were minors (para 35) and that in 2005 law enforcement agencies returned to Ukraine 35 minors from abroad (para. 31) and that as of the 30th of June 2006 120 unaccompanied children were repatriated from 9 countries (para. 52). In the light of the fact that about 48 million live in Ukraine, can one run into conclusion about children trafficking "through and from Ukraine" as "a very big problem and severe reality which needs profound solutions and innovative ways of combating and preventing it"? (para. 48).

The Special Rapporteur finds out that “the procedures regarding adoptions, especially international adoption, are lengthy and complicated” (para. 43). In this regard it should be noted that the Ukrainian authorities decided to issue rather strict adoption regulations aiming to prevent any abuse of children’s rights.

In paragraph 10 of the Report the Special Rapporteur mistakenly mentions that Ukraine „did not sign or ratify... the Optional Protocol to the Convention against Torture and the United Nations Convention against International Organized Crime and the Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime”. Ukraine has ratified both instruments: the Optional Protocol on the 21st of July 2006 and the United Nations Convention, as well as the Protocol supplementing Convention on the 4th of February 2004.

As to the Second Optional Protocol to the International Covenant on Civil and Political Rights, the Ukrainian Government already started the process of ratification of this instrument. But what is more important the death penalty was abolished in Ukraine much earlier.

The Special Rapporteur has failed to refer to the draft of National Action Plan for 2006-2010 to implement the United Nations Convention on the Rights of the Child. The draft, which was presented to the Special Rapporteur during his visit to Ukraine by the Minister of Ukraine for Family, Youth and Sports, already contains many actions which are mentioned as the recommendations of the report. It provides inter alia for introducing in Ukraine of a separate juvenile justice system for young offenders in conflict with law and for opening smaller orphanage institutions of up to 50 children and enhancing the level of education in them (recommendations contained in paragraphs. 73 and 77, respectively).

Also surprising is the generalized conclusion of the Special Rapporteur, according to which “crime and violence, and aggression towards children are nowadays realities that plague countries such as Ukraine” (para. 40). Although separate cases of cruel attitude towards children unfortunately do take place in Ukraine, however one cannot but see the unbalance in this sweeping conclusion. The Special Rapporteur’s statement that “multiplicity of public actors involved in the protection of children is ineffective and has to be changed” (paras. 65) is also lacking evidence.

It is worth special mentioning that the evaluation of the country’s political situation and its foreign policy as well as level of corruption does not make up part of the mandate of the Special Rapporteur on the sale of children, child prostitution and pornography. Nevertheless his Report includes conclusions based on the Special Rapporteur’s preconceived vision of certain phenomena which should not constitute its subject matter.

This relates, for example, to his conclusion about Ukraine’s undetermined foreign policy orientation” (p. 2). In this regard it is important to mention that there exists a consensus in the country as to the integration and membership of Ukraine in the European Union, that does not, however, exclude good-neighbor relations with Russia.

As to the conclusion of the Special Rapporteur concerning corruption in the country (p. 19, para. 62), we would admit that Ukraine, along with other countries, has certain problems in this

sphere. However evaluating corruption level is also beyond the scope of the mandate of the Special Rapporteur on the sale of children, child prostitution and child pornography.

This long list of issues is in no way intended to diminish the work done by the Special Rapporteur. But we believe that only an objective evaluation of the real scope of the problem based on reliable data can be used to determine further action.

The Government of Ukraine took note of the recommendations contained in the report. They will be carefully studied and taken into account by the Ukrainian agencies dealing with protection of children's rights.
