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SUMMARY RECORD OF THE 1349th MEETING

Held at the Palais Wilson, Geneva,
on Thursday, 18 September 2008, at 10 a.m.

Chairperson: Mr. ZERMATTEN (Vice-Chairperson)

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In the absence of the Chairperson, Mr. Zermatten, Vice-Chairperson, took the Chair.

The meeting was called to order at 10.05 a.m.

CONSIDERATION OF REPORTS OF STATES PARTIES (agenda item 4) (continued)

Initial report of Lithuania under the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography (CRC/C/OPSC/LTU/1; CRC/C/OPSC/LTU/Q/1 and Add.1)

1. At the invitation of the Chairperson, the members of the delegation of Lithuania took places at the Committee table.
2. Ms. MURAUSKAITĖ (Lithuania), introducing the report of the State party (CRC/C/OPSC/LTU/1), said that Lithuania was aware of the fact that its geographical location made it a country of origin, transit and destination. One of its top political priorities was to safeguard children's rights. Parliament had ratified or acceded to most of the international conventions creating a legal framework to protect children. In Lithuania, trafficking in persons, and the sale of children, child prostitution and child pornography, were treated as serious violations of children's rights. All forms of prostitution were illegal.
3. In Lithuania, as elsewhere, the most vulnerable children were those from families or groups at social risk. In recent years, Lithuania had boosted prevention and protection by increasing the number of specially trained social workers, with a resulting decrease in the numbers of children and families at risk in 2008.
4. Lithuania had brought its criminal and administrative law into line with the Optional Protocol, which had increased criminal liability for child prostitution and child pornography. The Civil Code had been amended to oblige the offender rather than the victim to leave his or her home and family.
5. Lithuania continued to implement the European Commission's Safer Internet *plus* Programme to protect child Internet users. The hotline for reporting criminal activities in that context to national institutions had proved particularly effective. Since 2004, Lithuania had conducted annual campaigns to halt violence against children, during which municipal children's rights protection service staff were given special training in assessing the risks faced by children using mobile phones, computers and the Internet.
6. Police officers, prosecutors, social workers, municipal children's rights officers and childcare specialists received training in Lithuania's two special programmes to prevent trafficking and prostitution and to support victims. Assistance to victims was funded by the State and provided by qualified specialists trained under international training programmes.
7. Mr. PARFITT (Country Rapporteur) said that he was concerned at the lack of any definition of "prostitution" or "pornography" in Lithuania's criminal law, which meant that the law would not necessarily cover, for example, paedophiles who used cartoons representing children in pornographic situations.

8. He understood that the quality of the services provided to victims by municipalities depended on central Government funding and local government attitudes to the issue. He asked what measures were being taken to ensure that children throughout the country had access to similar services.
9. He wondered whether there was much to be gained by imposing administrative fines on girls who became involved in prostitution. They were invariably victims of some form of crime, such as trafficking or child abuse in the home. Rather than subjecting such girls to fines, it might be better to refer them to some service.
10. He commended the State party on the report provided by the Children's Rights Ombudsman and on the manner in which the Office of the Ombudsman operated, which was in line with the Committee's recommendations in its general comment No. 2 on the role of independent national human rights institutions in the promotion and protection of the rights of the child (CRC/GC/2002/2). He wondered to what extent the State party had implemented the recommendations made by the Children's Rights Ombudsman.
11. The limitation periods for bringing criminal action in connection with offences under the Optional Protocol seemed much too short. Victims were often too young even to disclose the crime. Had the State party considered setting the limitation period to run from the time the victim reached the age of majority?
12. Child victims and child witnesses enjoyed extensive protection under the juvenile justice system. However, a number of the protective provisions were discretionary, and he wondered if the State party had given any thought to making them mandatory.
13. He asked the delegation to clarify the role of NGOs in Lithuania. They seemed to act more as providers of services at the municipal level than as policy advocates for children.
14. The State party's report contained the shocking revelation that girls in care often became victims of trafficking, prostitution and pornography, and he wondered whether Lithuania had the capacity to prevent such occurrences.
15. The State Family Policy conceptual framework defined the family in very narrow terms. The Committee on the Elimination of Discrimination against Women had expressed concern that the conceptual framework might have a negative impact on women and girls, in part by preventing them from receiving education on sexual health. The delegation should assure the Committee that the adoption of the conceptual framework would have no negative consequences for child victims, particularly girls, under the Optional Protocol.
16. Ms. VUCKOVIC-SAHOVIC (Alternate Country Rapporteur) said that the State party was clearly attempting to keep pace with international legislation, and Lithuania's domestic law seemed broadly in line with international standards. She wondered whether Lithuania had signed the Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse. She wished to know if Lithuanian courts had ever directly applied international law in general and the Optional Protocol in particular.

17. She regretted that the State party had not drafted its report in accordance with the Committee's guidelines, since that raised the question whether the State party had an overall grasp of the Optional Protocol. She pointed out that, while the report provided extensive information on the problems of trafficking and violence, those issues were not explicitly covered by the Optional Protocol. Paragraph 31 of the report demonstrated another aspect of the same problem: by equating "runaway children" with "street children", the State party showed a lack of understanding of both concepts, which could result in the criminalization of runaway children. Moreover, street children were equated with "children who are prone to commit offences or crimes", which was mere stereotyping.

18. She commended the State party on its research, which had yielded very useful findings, although she would have preferred more discussion of poverty as an overarching context for exploitation. She was impressed with the thoroughness of the State party's data collection. However, the State party had placed undue emphasis on trafficking and had not provided the data requested on prostitution or child pornography.

19. She would appreciate more information on budget allocations for the implementation of the Optional Protocol. It appeared that part of the budget was used for services and training, and she wished to know if there was any external funding. Did NGOs receive a share of budget allocations to help them play their part in implementing the Optional Protocol?

20. Mr. KOTRANE expressed concern that "prostitution" and "pornography" had not been defined in the Criminal Code, which made those offences difficult to prosecute and punish. He would be interested to know what measures the State party intended to take in order to incorporate all acts and activities constituting the sale of children, child prostitution or child pornography into its national legislation. He wished to know whether illegal adoption was considered and punished as the "sale of children", as defined in article 2 of the Optional Protocol, and whether a person accepting a child - for whatever purpose covered by the Optional Protocol - was punished in the same way as the person offering or delivering the child.

21. He would like to know more about the requirement described in paragraph 55 of the initial report, whereby Lithuanians could be prosecuted under Lithuanian law for offences committed abroad, but only if the act committed was also punishable under the criminal law of the country in which the offence occurred. The requirement of double criminality did not appear to be fully consistent with the provisions of the Optional Protocol.

22. He asked what measures the State party had taken to establish the liability of legal entities for offences covered by the Optional Protocol. He had been surprised to learn that there had not been any instances of international legal cooperation in relation to criminal activities covered by the Optional Protocol, particularly since Lithuania was a country of origin, transit and destination.

23. Mr. KRAPPMANN asked whether Lithuanian children received any education about the Optional Protocol in order to alert them to possible risks and teach them how to protect themselves. He wondered whether such education was mandatory, and whether it was provided at all levels of education. Was such education also provided in day-care centres?

24. Mr. POLLAR asked whether any corruption had been detected in the police or the migration authorities and, if so, what was being done about it. The delegation should confirm that no distinction was made between girls and boys with regard to the acts covered by the Optional Protocol. He requested more information on the issue of compensation for damages.
25. Ms. AIDOO asked what action the courts had taken in relation to the cases that had been brought before them in 2006 and 2007. She wished to know what supervision existed in institutions that provided care for children under 18 years of age, what awareness there was of the rights of adolescent girls, and what training was given to managers of such institutions. The delegation should explain to what extent families, children and professionals were aware of the provisions of the Optional Protocol.
26. Ms. ORTIZ asked whether the State party had a mechanism to ensure that no intermediaries were making money from the adoption process, and what measures had been adopted to ensure that the best interests of the child were taken into account when the reason for his or her separation from the family was poverty.
27. Mr. CITARELLA asked for more information on the specific provision of the Criminal Code applying to the sale of children. He wished to know who was responsible for caring for child victims of such offences. Was a distinction made in national legislation between victims of sexual exploitation under the age of 18 and those over the age of 18?
28. Ms. HERCZOG said that, given the State party's cooperation on various issues with Norway and Sweden, she would be interested to learn about any training programmes in Lithuania that had been adapted from the Nordic system. The delegation should provide information about rehabilitation programmes for offenders. With regard to the statistics on violence against children, and given the generally acknowledged fact that only 10 per cent of all cases of violence were actually reported, she asked what steps were being taken to improve reporting mechanisms. She wished to know whether psychiatrists and/or psychologists were involved in children's rehabilitation programmes. Lastly, she asked whether there were any training courses for parents in order to prevent violence against children through improved parenting.
29. The CHAIRPERSON expressed concern at the small number of special child-questioning rooms. It did not seem to be common practice in Lithuania for psychologists to be invited to the questioning of a witness or victim under 18, or to take part in the questioning. He would welcome more information on what arrangements were made for child victims and witnesses during proceedings, including how many times they could be questioned.
30. Mr. PARFITT asked whether any bilateral or multilateral agreements had been concluded with children's countries of origin in order to ensure that children's return to those countries did not pose a risk to their safety. He requested information on mandatory reporting of child abuse and neglect in the State party, and asked how the State party thought the reporting system could be improved.

The meeting was suspended at 11.10 a.m. and resumed at 11.30 a.m.

31. Ms. MILAŠIŪTĖ (Lithuania) said that lawyers from the Ministry of Justice had drafted the report using information submitted by other ministries. While the Ministry of Justice had requested other ministries to follow the Committee's guidelines for initial reporting, the Ministry of Justice itself had followed the structure of the Optional Protocol instead. While the Ministry of Justice had not considered that practice to be in conflict with the guidelines, it was true that information in the report was organized on an article-by-article basis rather than in thematic clusters.

32. Mr. BIKELIS (Lithuania) said that "pornography" and "prostitution" had not been specifically defined because their meaning was considered to be clearly understood in both judicial theory and practice. In addition, use of the term "pornography" was evolving and, in order to ensure greater flexibility, it had been deemed appropriate to leave the interpretation of that term to judicial experts.

33. Mr. KOTRANE said that, in all comparable legal systems, if an offence was not defined in legislation it could not be punished. It was important for Lithuania to include the innovative, extensive definitions provided in the Optional Protocol in its national legislation.

34. Mr. BIKELIS (Lithuania) said that there were exceptions to administrative fines for prostitution, for example when the person concerned was a victim of the offence of the sale of children. Under Lithuanian legislation, administrative liability increased from the age of 16, which could pose problems for older children. However, those problems were solved in practice, as the courts were allowed to impose lighter penalties.

35. The CHAIRPERSON welcomed the fact that there were exceptions to administrative fines, which in his view should be abolished. It should be the perpetrators of the offences, and not the victims, who should be punished.

36. Mr. CITARELLA asked whether records were kept of fines imposed on children and whether they would be taken into consideration when evaluating offences children might commit as adults.

37. Mr. BIKELIS (Lithuania) said that only children who were considered to have voluntarily engaged in prostitution were liable to such fines. Thus, fines were very rarely imposed.

38. Mr. PARFITT said that he took it that the fines were applicable to both sexes. He sought confirmation that procurers were also liable to such fines.

39. Mr. BIKELIS (Lithuania) said that the fines were applicable to both sexes and that, as the result of an amendment introduced in 2005, procurers were also liable to fines. The records of such fines were not taken into consideration in cases involving offences committed by adults.

40. Ms. VUCKOVIC-SAHOVIC said that, under international law, children could not be held responsible for involvement in prostitution unless they had committed a criminal offence. She asked whether involvement in child prostitution was a criminal offence in Lithuania, and whether children, as defined in the Convention, could be held responsible for involvement in

prostitution. She wished to know more about attitudes towards children in Lithuania. When children volunteered for dangerous activities, such as the army or prostitution, they should be regarded as victims of circumstances, since they did not have the capacity to take such decisions.

41. Mr. BIKELIS (Lithuania) said that involvement in prostitution was not a criminal offence but an administrative one. Under the Code of Administrative Offences, only persons aged 16 and over were punishable for such offences. The legislature had recognized that the Code was not in keeping with international law and was drafting a new code to that end. In the meantime, any problems that arose were dealt with by means of exceptions.

42. The period of statutory limitation with regard to serious offences, such as the sale of children or involvement in child prostitution, was between 8 and 10 years and, as far as he was aware, did not pose any particular problems in practice. It was not a short period of time, and no cases involving such offences had been terminated because the period of statutory limitation had expired.

43. Mr. PARFITT said that the problem with younger children who were victims of less serious offences was that they might not be in a position to report the offence until several years after the event, by which time the period of statutory limitation for prosecution might have expired.

44. Mr. BIKELIS (Lithuania) said that the Convention on the Rights of the Child had been invoked by the Supreme Court in the grounds for its decisions in many child-trafficking cases.

45. There was no specific provision in the Criminal Code concerning the import or export of pornographic materials, which was considered as falling within the scope of other criminal acts.

46. Persons who purchased children were liable to penalties under article 157 of the Criminal Code. While there was no double criminality requirement for the principle of universal jurisdiction, in accordance with article 8 of the Criminal Code, it was a requirement for the principles of personality and the protection of the interests of the State. Legal entities could be held liable under criminal and civil law for the sale of children, and any legal entity found guilty of that offence could be ordered to pay compensation for damages.

47. The CHAIRPERSON enquired whether any legal entities had been convicted in Lithuanian criminal or civil courts for offences, particularly child pornography, under the Optional Protocol.

48. Ms. AIDOO asked whether the transfer of children's organs for profit was a criminal offence.

49. Mr. BIKELIS (Lithuania) said that, under article 157 of the Criminal Code, the purchase or sale of children with the intent of obtaining their organs, tissues or cells was an aggravated offence subject to a term of imprisonment of 5 to 15 years.

50. The criminal liability of legal entities was a fairly new concept in Lithuanian law, and there was very little case law on the subject. To his knowledge, no direct reference to the Optional Protocol had been made in cases brought before Lithuanian courts.

51. Turning to questions raised concerning the purchase and sale of children for the purpose of adoption, he said that, in 2005, article 157 of the Criminal Code had been amended to bring it into line with international treaties signed by Lithuania, including the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime, the European Council Framework Decision on Combating Trafficking in Human Beings and Combating the Sexual Exploitation of Children and Child Pornography, and the Optional Protocol on the sale of children, child prostitution and child pornography. Article 157 was now fully in line with the first two instruments, and a heated debate was under way as to whether that article complied with the Optional Protocol. Some considered that a broader definition of the offence was required and that the article should be further amended to cover the purchase or sale of children for engagement in a range of criminal activities.

52. Ms. VUCKOVIC-SAHOVIC questioned the statement in paragraph 49 of the initial report according to which 15 foreign intercountry adoption agencies had been accredited to operate in Lithuania. With so few children available for adoption, she did not understand why the services of so many foreign agencies were required.

53. Mr. KOTRANE drew attention to article 3, paragraph 1 (a), of the Optional Protocol, from which it was clear that, in order to comply fully with that instrument, Lithuanian legislation must consider illegal adoption in the context of the sale of children.

54. Mr. PARFITT said that the delegation should confirm that article 157 of the Criminal Code covered offences of universal jurisdiction that were not subject to the requirement of double criminality, and that other offences under the Optional Protocol were subject to that requirement.

55. Mr. BIKELIS (Lithuania) said that, pursuant to article 7 of the Criminal Code, universal jurisdiction applied to the offences of trafficking in persons and trafficking in children. The principle did not apply to other offences under the Optional Protocol and, if those offences were committed abroad, the principle of double criminality applied.

56. Ms. MIKALAUSKAITĖ (Lithuania) said that there had been considerable debate on the question of intercountry adoption at the time of drafting of Lithuania's new Civil Code. However, since Lithuania had ratified the Convention on the Rights of the Child without reservations, it had been decided to allow intercountry adoption in order to comply with the provisions of article 21 of the Convention.

57. The State Child Protection and Adoption Service, under the supervision of the Ministry of Social Security and Labour, was responsible for matters relating to adoption. Foreign adoption agencies seeking Lithuanian children for adoption had to be duly accredited, in accordance with the provisions of the Hague Convention on Protection of Children and Cooperation in respect of Intercountry Adoption. The number of foreign adoption agencies was limited, and there had been very few cases of intercountry adoption. While intercountry adoption for profit was not allowed, the agencies did charge fees for their services. In general, the Lithuanian children who were available for adoption were not newborns, but older children with siblings or health problems.

58. Mr. BIKELIS (Lithuania) said that different penalties were imposed for sexual abuse according to the age of the victim. Sexual abuse of adults carried a prison sentence of up to 7 years; when the victim was under the age of 18, the sentence was 2 to 10 years, and 3 to 13 years when the victim was under 14. The same distinction based on the age of the victim applied to all sexual offences covered by the Criminal Code.

59. Referring to statistical data relating to criminal cases involving the sale of children, he said that, although 17 cases had been registered in 2007, they concerned only two or three victims. Apparently, several complaints had been filed for the same offences.

60. Ms. STAŠKOVSKAJA (Lithuania) said that, since 2002, the Government had implemented a systematic policy to combat trafficking in persons; that policy included the creation of the post of national coordinator and also inter-agency and multidisciplinary task forces at the national and local levels, with the participation of social workers, psychologists, NGO representatives and other specialists. Repatriation was carried out in accordance with bilateral agreements with States of the European Union and with other States, including the Russian Federation, Uzbekistan and Azerbaijan. Staff of the Migration Department of the Ministry of the Interior accompanied repatriated minors to the border of the receiving State. There were currently five hearing rooms specifically intended for minors, and there were plans to set up five more by 2010.

61. Ms. MILAŠIŪTĖ (Lithuania) said that the Government had signed the Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse, and planned to ratify it.

62. Ms. STAŠKOVSKAJA (Lithuania) said that, mindful of the need for reliable data, the Ministry of the Interior had established a depersonalized database on trafficking in persons, including children. The database, which was updated twice a year, made it possible to access not only quantitative information, but also qualitative information, such as victims' age, education level, country of destination, place and circumstances of recruitment and previous social environment. Lithuania cooperated closely with Europol; it had a designated national contact person and exchanged information regularly with it, making use of the Phoenix database to record and collect information on crimes against children. The Government participated actively in the Interpol task force on human trafficking, and a Baltic regional group against trafficking met four times a year to coordinate activities. Lithuanian law enforcement agencies had direct contacts with their counterparts in other countries, including the United Kingdom, the Netherlands, Sweden, Denmark and other European States.

63. Mr. PARFITT asked whether the best interests of the child were considered to be paramount when children were repatriated, and whether the Government ensured that such children would be safe and secure on their return.

64. Ms. STAŠKOVSKAJA (Lithuania) said that victims could be returned through government agencies (for example, through diplomatic channels) or through non-governmental agencies. In both cases, the return was financed by the Government of Lithuania, and the victims were provided with psychological, social and legal support during the exercise.

65. Mr. ŠIMAITIS (Lithuania) said that prevention of trafficking was a major element in the education plans and programmes recently adopted by the Government. The Government was working closely with education agencies with a view to designing effective measures to prevent trafficking. A new programme placed greater emphasis on ethics, moral values and civics. Sex education and family planning programmes in schools played a very important role in combating prostitution and the sale of children. Those programmes had been introduced in 2000 and had recently been improved with a view to preventing early sex, violence and discrimination, and preparing children for life skills and for their future roles in marriage and in the family. There were also programmes to discourage the use of alcohol and tobacco. Programmes had recently been introduced to provide better social and emotional support for students.

66. Under current legislation, schooling was compulsory up to the age of 16 but would soon be made compulsory through the age of 18. A recently adopted law on supervision of children required prevention groups to be set up in all Lithuanian schools. In the past four years, the number of psychological services in the education system had risen from 23 to 53.

67. Ms. HERCZOG asked whether children living in institutions ever escaped and whether such children were recruited for commercial sexual exploitation.

68. Mr. KRAPPMANN asked whether the educational activities that the delegation had cited were sufficient for protecting children from the dangers they faced on the street and from using the Internet.

69. Mr. ŠIMAITIS (Lithuania) said that the Ministry of Education had worked with teachers at institutions to ensure that they were qualified to deal with the special challenges they faced. The Ministry also took part in the European Commission's Safer Internet *plus* Programme and worked with telecommunications companies to reduce risks on the Internet.

70. Ms. MIKALAUSKAITĖ (Lithuania) said that children in institutions faced a high level of risk because they had often been exposed to poverty and family problems. The Government had adopted a holistic approach, whereby it addressed the underlying problem of poverty, for example by providing educational materials and free day-care assistance for poor families. Social workers in local communities were trained to work directly with families and children at the grass-roots level, and efforts were being made to make the childcare system more family-friendly. A special programme to reduce violence in institutions provided for the organization of seminars and the dissemination of information. The Government had responded to reports of children in institutions being used for pornography or the sex trade by establishing a new programme for victims of sexual abuse, with the aim of providing each child with an opportunity to receive professional assistance.

71. Ms. ORTIZ asked whether children in institutions had an opportunity to make their opinions known and to file complaints.

72. Ms. MIKALAUSKAITĖ (Lithuania) said that the newly adopted standards for childcare included the requirement that children's opinions should be heard, and was in keeping with United Nations and Nordic standards; however, in practice, there were still some problems.

Children were able to complain to the Ombudsman, and could make use of a toll-free hotline to report problems to the municipal authorities. There were plans to set up a hotline to deal specifically with child abuse.

73. Ms. VUCKOVIC-SAHOVIC (Alternate Country Rapporteur) said that, in its concluding observations and recommendations, the Committee would recognize the progress made by Lithuania, and would call for certain amendments to Lithuanian legislation, including the replacement of certain social and administrative structures and the limitation of the list of offences to those that were internationally recognized.

74. Mr. PARFITT (Country Rapporteur) said that, in its concluding observations, the Committee would make certain recommendations in the area of legal reform, penalties, resources, and children in institutions.

The meeting rose at 1 p.m.