



Submission to Universal Periodic Review of Bulgaria
National Network for Children - Bulgaria
12 September 2014

Introduction

The National Network for Children - Bulgaria is an alliance of 124 civil society organizations working with and for children and families across the whole country. Our vision is a society where every child has their own family and enjoys the best opportunities for life and development. There is a harmony between the sectoral policies for the child and the family and the child rights and welfare are guaranteed.

The fulfillment, protection and promotion of children's rights are part of the key principles which unite us. We believe that all policies and practices that affect directly or indirectly children should be developed, applied and observed, taking into account the principle of the best interest of the child and with the active participation of children and young people themselves.

All our work is underpinned by the UN Convention on the Rights of the Child, an international human rights treaty which grants all children and young people a comprehensive set of rights, which lays down the philosophy, the values and the way of work of the Network.

More information about us and our work can be found at <http://nmd.bg/en/> and the organizations members of the National Network for Children could be seen at <http://nmd.bg/tchlenove/>.

Aims and objectives of the document

The aim of the submission is to provide feedback and the views of civil society organizations working with children and families in Bulgaria on the State's achievements, challenges and constraints related to the implementation of accepted UPR recommendations since the first review held in March 2011.

The document is structured in several chapters which are as follows: Summary of the submission, Feedback on recommendations and Emerging Issues. The first chapter provides a summary of key issues and recommendations while the other two provide a detailed input on accepted recommendations progress from NNC-Bulgaria point of view and suggestions for emerging issues to be considered during the forthcoming UPR cycle. The feedback and NNC responses are provided following the categories used in the the Mid-Term Implementation Assessment of Bulgaria: Minorities, Justice, International Instruments and Women and Children's Rights.

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I. Feedback on recommendations issued at the first Universal Periodic Review cycle in 2011

1. Minorities

- Recommendation n°42: *Continue pursuing appropriate policies and programmes to accommodate the needs of mentally disabled children (Recommended by Slovakia)*

NNC: Not implemented. Efforts are undertaken to close institutions for children with disabilities. However, NNC is concerned that the setting up of family-type placement centres as alternative to them with a capacity up to 15 children is far from family-type and is a replacement of large-scale institutions with small ones. There's also no focus and investment in appropriate support to parents and families at risk, prevention and early intervention. Need to change philosophy, adopt the International Classification of Functioning, Disability and Health (ISF) and a rights based approach to children and people with disabilities.

- Recommendation n°43: *Adopt a national strategy to continue and intensify the deinstitutionalization process aimed at replacing current shelters with alternative housing and means of care better suited to meeting the needs of orphans and-or persons with mental disabilities (Recommended by Belgium)*

NNC: Partially implemented. There's a strategy for deinstitutionalisation of children and a strategy for long-term care. However, the philosophy should be also changed from replacement of large-scale institutions

with small ones to provision of adequate personal assistance, development of a housing policy and support for independent living in the community.

- Recommendation n°50: *Establish training programmes addressed to staff members of shelters for orphans and persons with mental disabilities in order to enable them to respond at best to the specific needs of the residents* (Recommended by Belgium)

NNC : Not implemented. There are no training programmes developed and effectively implemented. Training is insufficient, provided ad-hoc and mostly as part of pilot projects and supported by NGOs.

- Recommendation n°94: *Set up a policy specifically aimed at reducing the number of Roma children placed without valid reasons in establishments for children with disabilities or in rehabilitation centres* (Recommended by Canada)

NNC: Not implemented. There's no such consistent policy specifically aimed at Roma children. Deinstitutionalisation efforts do not focus on family support, prevention and early intervention. 52,3 %¹ of children in Bulgaria live at risk of poverty and there are no specialised measures to tackle this issue. Poverty of families with three and more children most of whom are Roma is 61 %.

Recommendation n°47: *Gather statistics on the various groups accessing public services in order to obtain an accurate picture of the use of services by different minorities* (Recommended by United Kingdom)

NNC: Not implemented. There's no disaggregated statistics related to minorities.

- Recommendation n°117: *Ensure that Roma children are not sent to special schools for the disabled, but instead are schooled together with other Bulgarian children* (Recommended by Finland)

NNC: Partially implemented. Children no matter of their origin are referred to special schools only after an assessment of a multi-disciplinary team for complex pedagogical assessment. However, there's lack of systemic approach related to ensuring effective access and quality to inclusive education for Roma children.

- Recommendation n°121: *Guarantee that the implementation of the law on compulsory preschool education for all children, adopted by Parliament on 23 September, covers the Roma as well as other minorities* (Recommended by Finland)

NNC : Not implemented. In 2013 the State adopted amendments to the Regulations of Family Benefits for Children Act enforcing that parents whose children do not attend the compulsory pre-school education would lose their child benefits. International research proves that penalizing people for being poor doesn't lead to better school enrollment and quality of education for children. Reaching out to excluded children would need a comprehensive approach and support to parents rather than depriving them from an income supposed to address some of their children's needs.

¹ http://epp.eurostat.ec.europa.eu/statistics_explained/index.php/People_at_risk_of_poverty_or_social_exclusion

- Recommendation n°122: *Continue its efforts on the issue of inclusion of children with disabilities in the general school system and reducing the number of schools for children with special educational needs* (Recommended by Slovenia)

NNC: Partially implemented. Following reforms, the number of special schools has significantly reduced. As of April 2014, there are 71 special schools. 4 of these are educational boarding schools and 3 are social pedagogical schools where children are sent for running from home, truancy, thefts, etc. as a punishment and due to lack of appropriate services which is a violation of their rights. The No. of children with special needs in kindergartens and schools has increased but there's a need to move from securing access for children to ensuring the quality of inclusive education through more resource teachers, appropriate methodologies and training programmes, adequate financing, etc.

2. International instruments

- Recommendation n°12: *Ratify CRPD* (Recommended by Spain)

NNC: Implemented. The Convention on the Rights of Persons with Disabilities has been ratified but not its Optional Protocol.

- Recommendation n°134: *Undertake a transparent and inclusive process with civil society in the implementation of universal periodic review recommendations* (Recommended by Norway)

NNC: Not implemented. Very often NGOs are invited to contribute or comment to proposed amendments in the last minute if at all asked for involvement. There is acute and urgent need for effective public consultation standards implementation and inclusion of civil society in decision-making process rather than only imitation of consultation.

3. Justice

- Recommendation n°87: *Create an effective juvenile system, and continue to reform its justice system* (Recommended by Nigeria)

NNC: Not implemented. The Concept for Public Policy on Juvenile Justice, approved in 2011, and the Road Map for the implementation of the Concept, adopted in March 2013, are not implemented. The rights of children in conflict with law continue to be seriously violated and there are still two systems (child protection and the system of local and Central commission for juvenile delinquency) which run in parallel and lack co-ordination.

4. Women and Children

- Recommendation n°27: *Adopt a law guaranteeing equal opportunities for women and men* (Recommended by Canada)

NNC: No specific law has been adopted. However, the Anti-Discrimination Law and the Social Securities Codex were amended in 2012 in order to implement the EU directive 2010/41/EC concerning the equal opportunities for women and men working as self-employed individuals.

- Recommendation n°38: *Establish urgently procedures-mechanisms at the central and local levels to ensure the health and safety of all children in institutions, including a child ombudsman at the national or regional level* (Recommended by Norway)

NNC: Not implemented. There are efforts to reform institutional care however this is done on a pilot project basis and doesn't include procedures and mechanisms to ensure the health and safety of all children in institutions. There's no special child ombudsman at national, regional or local level.

- Recommendation n°44: *Draw up concrete and effective strategies to fight against domestic violence* (Recommended by Switzerland)

NNC : Partially implemented. There's a Law on protection from domestic violence and the Government adopts every year a National programme for prevention and protection from domestic violence. In June 2013, the Government approved the action plan for implementation of the CEDAW Concluding Observations. More efforts are needed to ensure effective co-ordination and implementation.

- Recommendation n°48: *Ensure continued emphasis on children's rights and welfare in Bulgaria's budget policy and consider increasing budget allocations for the implementation of the CRC, including in the areas of health, education and family support* (Recommended by Malaysia)

NNC: Not implemented. There's no child centred state budget analysis nor capacity or understanding about the importance to involve children and young people and civil society to have access to information and processes which would allow them to engage effectively with the government.

- Recommendation n°73: *Put in place sound policies to ensure a safer environment for children, and implement a more effective system for addressing cases of violence against children* (Recommended by Indonesia)

NNC: Partially implemented. Despite the Agreement and the Coordination mechanism in cases of children victims of violence or children at risk and crisis intervention, created in 2010, the child protection system lacks sufficient capacity to address effectively cases of violence against children. Social workers workload is more than 100 cases as average and there's acute need to increase their number and ensure sustainable training, supervision and support. More efforts are needed in supporting parents, caregivers and family with child-rearing strategies and techniques which could address a range of individual and family risk factors.

- Recommendation n°74: *Implement policies to prevent and detect cases of child abuse, as well as to ensure accountability and the rehabilitation of child victims* (Recommended by Brazil)

NNC : not implemented. Efforts to adopt a new Children's Act aimed at improving the welfare of all children vs. children at risk were put on hold and the capacity of social workers from the Child protection departments (in terms of numbers, training and adequate resources) is limited to ensure effective

implementation. Engaging parents and caregivers early on through one-to-one parenting and parent-child programmes and providing information on child-rearing practices and early childhood development should be prioritized.

- Recommendation n°75: *Further enhance measures to prevent the exploitation of children for the purposes of prostitution and pornography, as well as to prosecute persons who are guilty of the exploitation or ill treatment of children* (Recommended by Belarus)

NNC: Partially implemented. With the amendments to the Penal code in 2013, enforced in 2014, the government transposed the Directive 2011/92/EC of the European Parliament and of the Council of 13 December 2011 on combating sexual abuse and sexual exploitation of children and the EU Anti-Trafficking Directive into the national legislation. However, no specific measures are undertaken to prevent exploitation of children or to pursue concrete actions to enhance victims protect, identify and prosecute offenders, raise awareness and reduce the availability of child pornography online and the re-victimization of children. There's lack of state co-funding for the National Centre for Safe Internet, limited progress with specialization of judges, prosecutors and magistrates in direct work with children and only 12 specialized premises for hearing of children in the whole country.

- Recommendation n°79: *Strengthen awareness-raising campaigns aimed at preventing human trafficking, and increase the protection provided to victims, notably children and newborns, including those of Roma origin, in line with the recommendations of the Committee on the Rights of the Child* (Recommended by Mexico)

NNC: Partially implemented. Some awareness -raising activities were undertaken. However, there is no specific treatment of particularly vulnerable victims aimed at preventing secondary victimisation such as no visual contact with the defendant, no unnecessary repetition of the testimony or holding interviews with children in a friendly environment.

- Recommendation n°80: *Further develop preventive measures to combat trafficking in human beings, with a special emphasis on children, newborn and pregnant women, as well as strengthen the national referral system and increase the number of centres for victims of trafficking* (Recommended by Moldova)

NNC: not implemented. No special measures discouraging the demand that fosters trafficking and addressing the root causes such as poverty, lack of social integration, access to education, discrimination, etc. were undertaken.

- Recommendation n°81: *Bring to justice the persons and social institutions for children responsible for 238 reported unaccounted deaths in the period 2000-2010* (Recommended by Norway)

NNC: Not implemented. There is no single indictment against persons and social institutions responsible for the 238 unaccounted deaths of children.

- Recommendation n°91: *Create an effective juvenile justice system in order to defend children's rights* (Recommended by Hungary)

NNC: Not implemented. The Concept for Public Policy on Juvenile Justice, approved in 2011, and the Road Map for the implementation of the Concept, adopted in March 2013, are not implemented. The rights of children in conflict with law continue to be seriously violated and there are still two systems (child protection and the system of local and Central commission for juvenile delinquency) which run in parallel and lack co-ordination.

- Recommendation n°95: *Rapidly close social institutions for children and find appropriate solutions for children who cannot live with their families* (Recommended by Norway)

NNC: Partially implemented. Efforts are undertaken however they target mostly homes for children with disabilities as well as 8 infant homes and there are concerns among NGOs that new services are de facto replacing large-scale institutional care with small institutions. Data for 2013 shows that the entry to infant homes is still open and more focus and priority shall be put on prevention, early intervention and family support.

- Recommendation n°96: *Allocate sufficient and, if necessary, additional resources for the recruitment and training of personnel in children's institutions, and intensify efforts to raise the number of foster families and provide them with adequate training for foster care* (Recommended by Netherlands)

NNC response: Partially implemented. There's progress with foster care development where there's an increase of approved foster parents and children placed. At the same time, in 2012 NGOs were excluded from foster care service development . The rapid increase of foster parents also raises issues related to the quality of the care including purpose of foster care, contact and support to birth families and support to FCs on behalf of social workers. No progress was made with regard to increasing the training and No. of staff in children's homes.

- Recommendation n°97: *Increase the training and staffing levels of institutions for children, improve oversight, and implement incentives to attract higher-quality candidates to fill positions at these institutions* (Recommended by United States)

NNC: Partially implemented. Some training was provided to the staff from institutions involved in the pilot projects under the national strategy Vision for deinstitutionalization of children and oversight was improved. However no specific incentives were envisaged to attract higher quality candidates.

- Recommendation n°98: *Undertake a comprehensive review of the child protection system, social assistance and family policies to ensure coordinated and efficient services* (Recommended by Austria)

NNC: Not implemented. Efforts were undertaken to review respective systems and improve co-ordination through a new Children's Act however these were put on hold due to lack of political will to implement proposed changes. There's acute need to review and improve the institutional and organizational set up related to children's services, case management, monitoring and control and increase capacity: child protection departments at municipal level are part of central Social Assistance Agency and the State Agency

for Child Protection is responsible for co-ordination of policies but receives funding through the Ministry of Labour despite that is supposed to be subordinated to the Council of Ministers.

- Recommendation n°99: *Provide sufficient resources for the effective functioning of the child protection system, including through training of social workers, standards to limit the case load per social worker and their adequate remuneration* (Recommended by Austria)

NNC: Not implemented. Efforts were undertaken through the employment of additional 400 social workers (220 of them were appointed in the child protection departments) but there still aren't case load standards, adequate training, resources and support mechanisms established in a systemic and sustainable manner. 1 social worker works with more than 100 cases leading to focus on paper work rather than quality direct work with children and families. This is a huge bottle-neck to all measures and reforms related to children such as deinstitutionalization, juvenile justice, inclusive education, prevention of school drop-out, prevention of child abuse, protection of violence, etc.

- Recommendation n°100: *Take steps to ensure the provision of appropriate support for parents and families at risk to prevent the abandonment of children* (Recommended by Austria)

NNC: Not implemented. The on-going deinstitutionalisation reform focuses on closure of homes for children with disabilities, 8 infant homes and there's no focus and investment in appropriate support to parents and families at risk, prevention and early intervention.

- Recommendation n°101: *Take urgent steps to end the continuing practice of placing babies and young children under the age of 3 in institutionalized care, and ensure the availability of family-based alternatives* (Recommended by Austria)

NNC: Partially implemented. There's increase in family-based alternatives but more efforts are needed to support birth parents of children and stop placement of babies and young children in institutions.

- Recommendation n°102: *Strengthen efforts to implement the - Vision for Deinstitutionalization -, specifically in the light of the United Nations Guidelines for the Alternative Care of Children* (Recommended by Austria)

NNC: Not implemented. The national strategy Vision for deinstitutionalization is managed on a pilot project basis rather than as a holistic and comprehensive process aimed to protect and fulfill the rights of children. There's also urgent need to improve multi-sectoral coordination and introduce changes in other sectoral policies such as health, housing, etc. and amend legislation related to standards and quality of services.

- Recommendation n°103: *Introduce legislation prohibiting secrecy in adoption and guaranteeing the right of the child to know his or her origins* (Recommended by Austria)

NNC: Not implemented. No legislation has been introduced prohibiting secrecy in adoption or fully guaranteeing the right of the child to know his or her origins.

- Recommendation n°104: *Take steps to end the practice of international adoptions where the adoptive applicants are matched with children without having been introduced or had any*

opportunity to build any relationship with a child prior to the adoption decision (Recommended by Austria)

NNC response: Not implemented. In August 2014, the Ministry of Justice has announced that a new Ordinance regarding the recommendation is developed but it hasn't been adopted yet. Practices in-country vary and depend on the international adoption agency policy rather than on a unified procedure based on children's best interest.

- Recommendation n°137: *Assess the recommendation made by the Committee on the Rights of the Child with regard to seeking technical assistance from the United Nations, in order to implement the recommendations of the study on violence against children and the establishment of a juvenile justice system (Recommended by Chile)*

NNC: Implemented. Technical assistance is provided by UNICEF.

II. Merging issues

1. Early childhood development

Early childhood development objectives have been established in all relevant sectors. However, there's lack of unified vision for early childhood development among different ministries and agencies and a lack of integrated common plan of action. In its General comment No. 7 Implementing child rights in early childhood (2005), the UN CRC states that *"For the exercise of their rights, young children have particular requirements for physical nurturance, emotional care and sensitive guidance, as well as for time and space for social play, exploration and learning. These requirements can best be planned for within a framework of laws, policies and programmes for early childhood, including a plan for implementation and independent monitoring."*

Suggested recommendation: Develop a national strategy/Vision for early childhood development supported by a detailed action plan for implementation and clear leadership and co-ordination mechanisms.

2. Child poverty

According to latest data from EU Statistics on Income and Living Condition (EU-SILC) survey, 52.3 % of Bulgarian children live at risk of poverty and social inclusion and 28.2 % live in poverty. Most at risk are single parents (42.5%) and families with three and more children (61 %). Children who are most often not included in health, educational and social services are primarily children of Roma origin, children with disabilities and children from rural areas. One of the main reasons for the high risk of poverty is the size and poor efficiency of social transfers. According to Eurostat data of 2011, Bulgaria is the state with the second least effective social transfers system in the EU (followed only by Greece) and the state with the second smallest size of social transfers (as a percentage of the GDP), followed only by Poland². On the other hand, social assistance is the main tool for ensuring adequate social protection of the vulnerable part of the population. With this in mind, a prompt re-evaluation of the system is needed to ensure adequate and sustainable social payments; improved capacity, planning and coordination of the responsible institutions; development of systems for monitoring and control of the effectiveness and efficiency of the process. The

² Europe 2020 target: Poverty and social exclusion – active inclusion strategies; EC services, 2012

overall poor state of the social systems (healthcare, education, social security and social assistance) significantly raises the risk of poverty.

Suggested recommendation: Undertake a comprehensive review of social assistance payments and social systems capacities in order to address adequately and effectively child poverty and well-being.

3. Refugees

Bulgaria was faced with a massive inflow of asylum seekers in 2013 – around 11,000 people lodged asylum applications in the country in 2013 compared with 1,000 on average in previous years. As a result, Bulgaria implemented a plan in autumn last year “to manage the crisis resulting from the enhanced migratory pressure.” Its main elements included building a 33 kilometre fence on the border with Turkey and increasing by 1,500 units the border police contingents patrolling that border. A co-ordination mechanism for unaccompanied children and children refugees was envisaged to be developed but the working group hasn’t met for more than 6 months.

The Social Assistance Agency stopped to grant family benefits to refugees at the end of 2013 on the grounds of art.3, item 5 of the Family Allowances Law and the argument that there is no agreement on social cooperation between the State of origin of the person under protection and the Republic of Bulgaria.

The Republic of Bulgaria has ratified the UN Convention on the rights of the child (UNCRC) and by the virtue of this document is obliged to monitor “child’s best interest...in all actions, regarding children, independently whether they are led by public or private institutions for social assistance, the courts, and the administrative or legislative authorities.”(Art.3 of the Convention). The benefits are allocated to children – refugees, for their palimony, integration and respect of their fundamental rights as the right to health services and education.

The deprivation of family allowances to children directly contrary to the Convention relating to the Status of Refugees. Although they do not have the same status as the Bulgarian citizens, an element of the social assistance to the individuals, beneficiaries of temporary protection should be the support for child raise. This will be in consistence with our country commitments to the UNCRC. Full NNC’s statement can be seen at <http://nmd.bg/en/nnc-alarms-for-violation-of-the-rights-and-minimal-standards-to-treat-children-and-individuals-under-international-protection/>

Suggested recommendation: Take urgent actions to develop co-ordination mechanism for unaccompanied refugees’ children and ensure appropriate social assistance is provided to foreigners with status of refugees, humanitarian status or temporary protection as part of international standards for human rights.

4. Child participation

In its Concluding Observation on Bulgaria (CRC/C/BGR/CO/2) from 23 June 2008, the UN Committee on the Rights of the Child recommends the State party to:

27 (a) Strengthen its efforts to ensure that children have the right to express their views freely in all matters affecting them and to have those views given due weight in schools and other educational institutions, as well as in the family, and reduce the disparities in the opportunities for the participation of students from different social backgrounds and various regions;

(b) Ensure that children are provided with the opportunity to be heard in any judicial, including civil (family, divorce) and penal matters, and in administrative proceedings affecting them, and that due weight is given to those views in accordance with the age and maturity of the child, and not with a strict age limit.

Suggested recommendation: Ratify the Optional Protocol to the Convention on the Rights of the Child on a Communications Procedure and ensure its promotion among children, parents and various professionals.

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