



Convention on the Rights of the Child

Distr.: General
17 July 2014
English
Original: French

Committee on the Rights of the Child

Sixty-seventh session

1–19 September 2014

Item 4 of the provisional agenda

Consideration of reports of States parties

List of issues in relation to the report submitted by Morocco under article 8, paragraph 1, of the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict

Addendum

Replies of Morocco to the list of issues*

[13 June 2014]

1. In view of Act No. 48-06 promulgated by Dahir No. 1.06.233 of 17 April 2007, which sets the minimum age for voluntary enrolment in the armed forces, please indicate whether national legislation makes it a criminal offence to enrol and deploy children under the age of 18 in the armed forces, the Moroccan auxiliary forces or non-State armed groups. If this is the case, indicate what criminal penalties exist for violations of these provisions. Please also indicate whether Moroccan legislation criminalizes the enrolment and deployment of children under the age of 15 in armed conflicts.

1. It should be noted that Act No. 48-06 does not set the minimum age for voluntary enlistment in the Royal Armed Forces; rather, it has, to do with the abolition of compulsory military service.

2. This Act repealed all the provisions concerning compulsory military service contained in several items of legislation, such as Act No. 4-99 establishing military service and its implementing regulations, the Public Service Statute (arts. 37 and 63 bis) and the Labour Code (arts. 32 and 256).

3. Moreover, and as noted in the initial report (CRC/C/OPAC/MAR/1, para. 31), there are no non-State armed groups in Morocco. The Royal Armed Forces, forces made up of

* This document is being issued without formal editing.



regular, professional personnel, are the only armed forces operating in the Kingdom of Morocco. The formation of any kind of armed group is prohibited by law.

4. It should also be noted that in accordance with the regulations of the Royal Armed Forces, the minimum enlistment age in Morocco is 18 years, authenticated by a birth certificate and national identity card. Under no circumstances may a minor under 18 years of age be employed in the Royal Armed Forces.

5. The absence of provisions in Moroccan legislation making the recruitment and use of children under the age of 15 in armed conflicts a criminal offence and classifying it as a war crime is therefore justified, as the legislation and regulations in force in Morocco expressly prohibit the enlistment of minors under the age of 18 in the Royal Armed Forces.

6. In any case, Moroccan law strictly prohibits the enlistment of children under the age of 18 in the Royal Armed Forces, as the Kingdom of Morocco has ratified the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict and published it in the Official Gazette; furthermore the preamble to the Constitution of the Kingdom of Morocco establishes the principle of the primacy of duly ratified and published international conventions over domestic law.

2. Apart from the training activities described in paragraphs 36–38 of the State party’s report (CRC/C/OPAC/MAR/1), please indicate whether any training on the Optional Protocol to the Convention on the involvement of children in armed conflict is also provided to other professionals working with children who are likely to be involved in armed conflicts, in particular immigration officers, lawyers, judges, medical personnel and social workers.

7. The curricula of military academies and military training centres include a 40-hour course on international humanitarian law for officers and a 20-hour course for other ranks.

8. In addition, information days and international humanitarian law seminars are organized for Royal Armed Forces personnel and, more specifically, for the Moroccan contingents due to take part in international peacekeeping missions.

3. Please indicate whether national legislation or military codes and manuals expressly define such concepts as the “direct participation” of children and the involvement of children in “hostilities” that are contained in the Optional Protocol.

9. As noted above, the legislation and regulations in force in Morocco expressly prohibit the enlistment of children under the age of 18 in the Royal Armed Forces. The direct participation or involvement of minors in hostilities is thus inconceivable, and as a result those concepts are not expressly defined in national legislation or military codes and manuals.

4. Please provide detailed information on the procedures that make possible the prompt identification of refugee, asylum-seeking or migrant children who may have been enrolled in the army or utilized in hostilities or who are at risk thereof. Please also provide statistics (disaggregated by age, sex and nationality) on the number of child refugees and asylum seekers who have benefited from rehabilitation programmes in the State party and indicate what entity is responsible for such programmes.

5. Please indicate whether extraterritorial jurisdiction is established for the violations covered by the Optional Protocol and, if so, specify the legislation applicable. Please also indicate the practice and policy with regard to extradition for violations covered by the Optional Protocol.

10. Moroccan legislation devotes a volume of the Code of Criminal Procedure to the competence of the courts to decide on offences committed inside and outside Morocco (arts. 704–712). It covers all criminal acts, including crimes against children.

11. The Moroccan courts thus have jurisdiction to rule on:

- Any offence committed in Moroccan territory, regardless of the nationality of the perpetrator;
- Any criminal act constituting the basis for an offence is considered as having been committed in Moroccan territory;
- The jurisdiction of the courts in these cases covers all acts of complicity or concealment, even if they are committed outside Moroccan territory or by foreign nationals;
- Offences committed by Moroccan nationals outside Morocco;
- Offences committed by foreign nationals outside Moroccan territory, when the victim is a Moroccan national.

12. The Kingdom of Morocco offers judicial cooperation relating to extradition on the basis of bilateral and multilateral agreements. Articles 718 to 7493-2 of the Code of Criminal Procedure provide for extradition, thus enabling the Kingdom of Morocco to extradite a criminal to a foreign country when the circumstances involve:

- A non-Moroccan defendant or guilty party in Moroccan territory who is being prosecuted by the requesting State or has been sentenced by its ordinary courts;
- An extradition request based on an offence committed in the requesting State by one of its citizens or a foreign national, or on an offence committed outside that State by one of its citizens or by a non-Moroccan foreign national when it is an offence for which Moroccan legislation authorizes prosecution in Morocco, even if the offence is committed by a non-Moroccan abroad.

13. Extradition requests are never granted in the following situations:

- If the act that led to a sentence is not an offence;
- If the person requested is a Moroccan national at the time of the offence for which he or she is being sought;
- If the offences were committed in Moroccan territory;
- If the offences were committed outside Moroccan territory, the prosecution took place outside Morocco and a final judgement has been handed down;
- If the prosecution or the punishment is time barred under Moroccan law or that of the requesting State.

6. With regard to paragraph 203 of the State party's combined third and fourth periodic reports (CRC/C/MAR/3-4), please provide specific information about the measures taken against soldiers participating in the peacekeeping operation in Côte d'Ivoire who were suspended by the United Nations in 2007 after having engaged in the sexual abuse of children. Please indicate in particular what criminal proceedings were brought and what convictions were handed down.

14. The Kingdom of Morocco, convinced of the overriding need for justice and the importance of transparency, and the Investigations Division of the Office of Internal Oversight Services of the United Nations carried out a joint investigation of the allegations of abuse and sexual exploitation made against the personnel of the Royal Armed Forces contingent taking part in the United Nations Operation in Côte d'Ivoire.

15. The investigations showed that the great majority of those allegations were baseless. Nonetheless, the Moroccan troops found guilty of abuse have been disciplined, discharged from the Royal Armed Forces, brought before courts martial and been given sentences of up to 2 years.

7. Please indicate whether children under the age of 18 have been involved in the armed conflict in Western Sahara and, if so, indicate what proceedings were brought against the persons who recruited them, the sentences that were handed down and the support and measures of assistance provided to the children in question.

16. In Morocco, as stated above, no child under the age of 18 years has been recruited for or involved in the armed conflict in the Moroccan Sahara, given that Moroccan legislation and regulations expressly prohibit the enlistment of those less than 18 years of age in the Royal Armed Forces.
