



**Convention on the
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COMMITTEE ON THE RIGHTS OF THE CHILD
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**WRITTEN REPLIES BY THE GOVERNMENT OF THE DEMOCRATIC
REPUBLIC OF THE CONGO CONCERNING THE LIST OF ISSUES TO
BE TAKEN UP IN CONNECTION WITH THE CONSIDERATION
OF THE SECOND PERIODIC REPORT OF THE DEMOCRATIC
REPUBLIC OF THE CONGO (CRC/C/COD/2)**

[Received on 24 December 2008]

PART I

Under this section the State party is requested to submit in written form additional and updated information, if possible before 24 November 2008.

1. Please provide details on the current status of the draft Child Protection Code

The draft Child Protection Code was approved by the two chambers of parliament (National Assembly and Senate) in the course of the ordinary session of April 2008 and the special session of August 2008 respectively, under the title: "Child Protection Act". A joint National Assembly/Senate commission worked on the harmonization of the two versions of the text at the ordinary session of October 2008. Once the commission has finished its work, the law will be submitted to the President of the Republic for promulgation and publication in the Official Journal.

2. Please provide the Committee with a brief account of the status, mandate, and human and financial resources of the National Council for Children (CNEN), and, in particular, measures taken to improve its ability to perform its tasks and ensure that it plays a coordinating role and carries out its mandate vis-à-vis the provincial councils for children

The details concerning the organization and functioning of CNEN, initially outlined in decrees Nos. 11, 12 and 13 of 13 May 1998, are now contained in decision No. MIN.AFF.SOC/CABMIN/004/2003 of 8 April 2003. They may be summed up as follows:

- (a) CNEN is an inter-ministerial body attached to the Ministry of Gender, Family and Children;
- (b) It advises the Government on the promotion and protection of children's rights and ensures the implementation of national policy regarding the protection, survival, development and participation of children (article 2 of the decree);
- (c) It derives its human resources within the office of the Ministry of Gender from other ministries dealing with children and from civil society organizations;
- (d) It derives its financial resources from the State budget for its functioning and from the support of international organizations and bilateral partners for the implementation of specific projects.

As a result of CNEN's operating difficulties, the ministry in charge, with the technical support of the non-governmental organization (NGO) Save the Children UK, has looked into ways of reforming the body, with respect to both its status and its mode of operation. The possibility is being considered of allowing CNEN greater administrative and financial autonomy. A national workshop is to be convened in the near future to adopt the necessary redynamization strategies.

3. *Please indicate whether any measures have been taken to harmonize the legislation relating to children and bring it into line with the Convention on the Rights of the Child (“the Convention”)*

The harmonization of domestic legislation with the Convention began with the texts referred to in paragraph 32 of the report, namely:

- (a) Act No. 023/2002 of 18 November 2002 enacting the Military Judicial Code, which removes all offences committed by children under the age of 18 from the jurisdiction of military courts;
- (b) Act No. 015/2002 of 16 October 2002 enacting the Labour Code, which inter alia raised the minimum employment age from 14 to 16 and prohibited the enrolment of children in armed forces or groups;
- (c) Act No. 04/023 of 12 December 2004 concerning the general organization of defence and the armed forces, which forbids the enrolment of children under the age of 18;
- (d) Acts Nos. 06/018 and 06/019 of 20 July 2006 respectively amending and supplementing the Decree-Law of 30 January 1940 enacting the Criminal Code and the Decree-Law of 6 August 1959 enacting the Code of Criminal Procedure.

The key stage of harmonization will be achieved with the passing of the Child Protection Act, which is to be promulgated by the President in the very near future.

4. *Please indicate whether the Convention has been invoked directly in domestic courts and, if so, please provide examples of such cases*

The Congolese courts have begun invoking the Convention and other international human rights conventions directly in their judgements. This is thanks to the new training introduced for judges and lawyers in 2003.

Thus the Magistrate’s Court of Assossa in Kinshasa refused to conduct criminal proceedings against a child aged 17 by invoking articles 2 and 17 of the African Charter on the Rights and Welfare of the Child, which establishes 18 years as the minimum age of criminal liability. The minor in question was then returned to the Prosecutor’s Office for referral to the juvenile court.

One of the grounds given by the judge was as follows: “that the African Charter on the Rights and Welfare of the Child was published in the Official Journal of the Democratic Republic of the Congo ... following ratification under Decree-Law No. 007/01 of 28 March 2001; that it therefore takes precedence over the Decree of 6 December 1950 ...”, according to which the minimum age for criminal liability is 16 (Magistrate’s Court of Kinshasa/Assossa, R.P. 4215/IV of 3 April 2006).

Thanks to the Charter, the minor was granted social welfare assistance instead of receiving a prison sentence or a fine.

5. *Please briefly inform the Committee whether the State party intends to establish an independent monitoring mechanism in line with the Paris Principles relating to the status of national institutions (General Assembly resolution 48/134 of 20 December 1993, annex) that will address children's rights*

Further to the information given in paragraph 39 of the second periodic report, it may be mentioned that, at its July 2008 session, the National Assembly passed the Act on the organization and functioning of the new National Human Rights Monitoring Centre (ONDH), which has been submitted to the Senate. Once approved by the latter, the Act will be promulgated by the President of the Republic.

6. *Please briefly inform the Committee about the role of the Ministry of the Family and its participation in implementation of the Convention*

The role of the Ministry of the Status of Women and the Family, now known as the “Ministry of Gender, Family and Children”, includes:

- (a) Protecting and promoting the status of women, children and the family;
- (b) Cooperating with the ministries of Human Rights, Primary, Secondary and Professional Education, Justice, Health, Social Affairs and Humanitarian Action to improve the status of women and children;
- (c) Promoting and disseminating all international conventions, laws, studies and research concerning the condition of women and children.

As far as the implementation of the Convention is concerned, the Ministry's main contribution has consisted in:

- (a) In 2008 preparing the national policy paper on gender integration, promotion of the family and protection of children, currently submitted to the Council of Ministers for validation;
- (b) In accordance with the recommendations of the 1990 World Summit for Children, setting up the Child Protection Directorate and the National Council for Children with the responsibility of monitoring and assessing human rights applications. A progress report in this respect was prepared in 2007, five years after the World Summit for Children;
- (c) Preparing sectoral plans, in particular for the registration of births in the Civil Registry (2004), and for the prevention and elimination of violence against children (2007);
- (d) Drafting the guide of indicators for the preparation of reports on the monitoring and implementation of the Convention (2007);
- (e) Supervising the harmonization of domestic legislation with the Convention;

- (f) Promoting the participation of children in activities connected with the implementation of the Convention, by setting up children's committees at national, provincial and local level;
- (g) Strengthening the capacities of public and private social actors who are members of the National Council for Children;
- (h) Conducting awareness campaigns inter alia on family stability, the registration of births in the Civil Registry, promoting the education of girls and protecting children away from home, especially those associated with witchcraft (*sorciers*);
- (i) Preparing the initial report on the implementation of the Convention and helping to prepare the second periodic report.

7. Please briefly describe dissemination and publicity activities, in particular those relating to the Convention and the Committee's concluding observations on the State party's initial report on the implementation of the Convention on the Rights of the Child (CRC/C/15/Add.153). Specifically, please provide brief information on the implementation of the "National Programme for Civic and Moral Education Integrating Human Rights"

As referred to in paragraphs 60 to 65 of the second report, various methods have been used to disseminate the Convention and raise awareness of children's rights, including:

- (a) The translation of the Convention into the four national languages;
- (b) The distribution of leaflets, posters and cartoons strips on the Convention;
- (c) The training of public and private actors (judges, civil servants, police officers, members of NGOs, children);
- (d) The integration of the Convention into the school programme;
- (e) Radio and television programmes, through the "Friends of Children" journalists' network.

It must be admitted, however, that the dissemination of the Committee's concluding observations following the presentation of the initial report was sporadic and coincided with the drafting of the second periodic report.

The "National Programme for Civic and Moral Education Integrating Human Rights", referred to in paragraph 61 of the report, was first implemented during the 2007/08 school year, with the support of the Human Rights Office of the United Nations Organization Mission in the Democratic Republic of the Congo (MONUC). Six out of 11 provinces were targeted for the training of a core group of 210 educators, consisting mostly of teachers, and the programme manual was distributed on that occasion. It is clear that efforts should be made to cover the whole country in terms of both training and tools.

8. *Please briefly inform the Committee about any direct support, including financial support, from the Government for civil-society organizations involved in children's rights*

The Government's direct support for civil-society organizations involved in children's issues has resulted in:

(a) The strengthening of technical capacities, through the training of members;

(b) Financial support, through the subsidiary budget, for about 10 national NGOs. During the financial year 2008, allocations totalled 98,000,000 Congolese francs, or US\$ 176,576.¹ The beneficiaries include:

- Aid for disadvantaged children (AED)
- Orphans and children suffering from AIDS
- Community of Social Assistance for the Needy in the Congo (CASNECO)
- Congolese Cooperative of the Blind
- Congolese Federation of Persons with Disabilities
- Chari Secours Orphanage
- National Association of Social Educators
- Jeunesse avenir (JA)
- Development Action for the Most Deprived (ADD)
- Association of Assistance for Persons in Difficulty
- National Committee for the Socio-Economic Integration of the Countryside
- "Sanctification" Orphanage
- Professional Centre for the Assistance and Promotion of Persons with Disabilities
- KIANZ Foundation
- "Twibakayi mwetu" Group
- Association of widowed mothers and orphans (AMVO)

¹ *Source:* Ministry of the Budget, Budget Act 2008.

9. Please briefly describe, with examples if possible, cooperation between the State party and civil society in the field of children's rights

As explained in paragraphs 56 and 59 of the second report, cooperation between the Government and civil society with regard to children's rights can be seen in:

(a) The involvement of civil society in defining general policies and drafting plans of action, in particular, the participation of the National Coordinating Forum for Health Sector NGOs (CNOS), the Network of Educators of Street Children and Youth (REEJER), and the Action Centre for the Training of Social Educators (CAFES);

(b) The implementation of programmes regarding, in particular:

- The education of the public regarding the Convention
- The removal of children from armed forces and groups (civil-society organizations are participating exclusively in the supervision and transit management aspects, raising awareness about leaving armed groups and family reintegration, and socio-professional reintegration; the NGOs involved include the Belgian Red Cross, the International Catholic Child Bureau (ICCB), Caritas, Solidarity Action for Children in Distress (SACD), Health Aid Action for the Most Deprived (AASD), and the Action Group for the Demobilization and Reintegration of Child Soldiers (GADERES))
- The legal defence of children who are victims of violence or in conflict with the law (the NGOs involved include the International Catholic Child Bureau (ICCB), the Justice Now Association (AJM), the Congolese Observatory of Human Rights (OCDH), the NGO Coalition for Children's Rights (CODE), and the African Zone League for the Defence of the Rights of Schoolchildren and Students (LIZADEEL))

10. Please briefly inform the Committee about any initiatives undertaken, including new legislation, to combat harmful practices such as female genital mutilation and forced marriage which violate children's rights

The fight against harmful practices is multifaceted, which includes:

(a) Legislation, such as the Sexual Violence Act, which provides for the following penalties:

- Forced marriage, 1 to 12 years' imprisonment and a minimum fine of 100,000 Congolese francs (art. 174f)
- Genital mutilation, 2 to 5 years' imprisonment and a fine of 200,000 Congolese francs (art. 174g)
- Trafficking and exploitation of children for sexual purposes, 10 to 20 years' imprisonment (art. 174j)

- Child pornography, 5 to 15 years' imprisonment and a fine of 50,000 Congolese francs (art. 174*m*)
- Child prostitution, 5 to 20 years' imprisonment and a fine of 200,000 Congolese francs (art. 174*n*)

(b) The National Committee to combat female genital mutilation, attached to the Ministry of Health.

11. *Please indicate the issues affecting children that the State party considers to be priorities requiring the most urgent attention in the light of implementation of the Convention*

The priorities with regard to protecting children's rights are:

- Ending the conscription of children into armed groups in the east of the Democratic Republic of the Congo
- Ensuring that all children have access to basic education by providing free primary education, as called for by the Constitution
- Ensuring access to primary health care
- Implementing reforms to the juvenile justice system

PART II

Under this section, the State party is requested to briefly (three pages maximum) update the information provided in its report concerning:

1. *New bills or legislation*

The general legal framework for the protection of the rights of the child in the Democratic Republic of the Congo has not evolved much since the submission in 2007 of the second periodical report to the Committee. Votes were taken regarding the law on the protection of children in the National Assembly during its regular session of April 2008, and in the Senate during the special session of August 2008. However, since the two chambers adopted it, with different phrasing, a joint commission was established to harmonize the text. It will be enacted as law by the President as soon as the commission's work is complete.

2. *New institutions*

Regarding new institutions for the protection of human rights, these developments should be noted:

(a) The creation, under the Constitution of 2006, of the Audiovisual and Communications Council, whose regulatory role is sure to have a positive impact on the protection of children against programmes that may corrupt their values;

(b) The adoption, by the National Assembly, of the law regarding the establishment, structure and operations of the National Human Rights Monitoring Centre, an independent body for the defence of human rights. This law must also be approved by the Senate before its promulgation by the President of the Republic;

(c) In addition, decision No. 12/CAB/MIN/ETPS/048/2008 names the members of the National Committee to combat the worst forms of child labour, in accordance with decision No. 12/MIN/TPS/AR/34/2006 of 10 June 2006, mentioned in paragraph 188 of the second periodic report.

3. *Newly implemented policies, and newly implemented plans of action, programmes and projects, and their scope*

With respect to policies, in 2008 the Democratic Republic of the Congo formulated the national policy paper on gender integration, promotion of the family and protection of children, which is currently being evaluated by the Council of Ministers.

Regarding plans of action, programmes and projects, these developments should be noted:

(a) The programme to ensure that all children of school age attend school, discussed in paragraphs 170 to 181 of the second periodic report. The campaign for mass enrolment of first graders for the school year 2007/08 yielded positive results, as in the three previous years. The slogan has been changed from “All girls in school” to “All girls and boys in school”. The evaluation of this campaign is based on a sample of 9,289 primary schools, which represent 37 per cent of the national network of public schools, according to the school census of 2007:

- An additional 24.6 per cent enrolment in the first grade, 24.5 per cent among girls and 24.7 per cent among boys
- An additional 20.3 per cent enrolment in the second grade, 20 per cent among girls and 20.5 per cent among boys

Rate of increase in school enrolment from 2006-2007 to 2007-2008

Provinces	Number of schools	First grade			Second grade		
		G	B	T	G	B	T
Bandundu	394	23.5%	19.7%	21.6%	23.0%	19.1%	21.0%
Bas-Congo	495	20.2%	18.6%	19.4%	24.6%	21.4%	23.0%
Equateur	214	21.6%	17.9%	19.8%	27.4%	24.3%	25.9%
Kinshasa	721	20.0%	18.4%	19.2%	16.0%	15.4%	15.7%
Katanga	2 387	63.6%	69.4%	66.8%	50.8%	51.5%	51.2%
Kasaï Occidental	102	23.7%	23.4%	23.6%	15.0%	13.0%	14.0%
Kasaï Oriental	366	16.7%	17.2%	17.0%	17.3%	10.2%	13.5%
Maniema	322	10.1%	8.6%	9.3%	7.9%	6.8%	7.3%
Nord Kivu	1 068	10.2%	7.5%	8.8%	7.5%	6.8%	7.2%
Ituri*	961	19.2%	8.4%	13.2%	12.1%	10.8%	11.4%
Province Orientale	869	3.1%	5.2%	4.1%	4.1%	7.3%	5.8%
Sud Kivu	1 390	10.0%	7.7%	8.8%	10.3%	8.9%	9.6%
National DRC average	9 289	24.5%	24.7%	24.6%	20.0%	20.5%	20.3%

Source: Ministry of Primary, Secondary and Professional Education, information note on the campaign for mass enrolment of children for the school year 2008/09, August 2008, p. 2.

* Ituri is a district of Province Orientale.

(b) The campaign to promote the use of insecticide-impregnated mosquito nets, discussed in paragraph 103 of the report, is being carried out using different strategies according to the areas concerned;

(c) Activities within the framework of the Global Malaria Action Plan (2005-2015), which calls for reducing by half mortalities related to malaria and increasing by 80 per cent the use of insecticide-impregnated mosquito nets nationwide before 2010. Three provinces have been targeted, Kinshasa, Equateur and Province Orientale, with integrated vaccination programmes in Equateur and Province Orientale:

- For the city and province of Kinshasa, the goal is the distribution of 2 million mosquito nets, 2 per household.
- For Equateur, the plan is to undertake the distribution of mosquito nets to 1,470,279 children, and the concurrent administration of anti-measles vaccines (VAR) and anti-polio vaccines (VPO), as well as vitamin A and mebendazole. These integrated programmes are also being carried out in Province Orientale and the provinces of Nord Kivu and Sud Kivu, targeting 2,776,321 children for treatment with VAR, 5,001,801 children for treatment with VPO, 4,498,975 children for treatment with vitamin A and 3,969,684 children for treatment with mebendazole.
- In Province Orientale, 140,000 mosquito nets are being distributed to children and pregnant women in six health zones.

4. *New ratifications of human rights instruments*

There have been no new ratifications of human rights instruments. However:

- The initial report on the implementation of the Optional Protocol on the involvement of children in armed conflict will be prepared soon, and
- The Ministry of Gender, Family and the Children has undertaken an assessment of the conventions related to the rights of children, with a view to selecting the most suitable for ratification, including in particular the Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption

PART III

Data and statistics, if available

- 1. In the light of article 4 of the Convention, please provide data for the years 2006, 2007 and 2008 on budget appropriations (in absolute figures and as percentages of the national budget or GDP) allocated to implementation of the Convention nationwide in the fields of education and health, and also the reintegration of children affected by the armed conflict***

Budget appropriations allocated to implementation of the Convention nationwide

	2006		2007		2008	
	CF	%	CF	%	CF	%
Overall budget	1 089 365 970 124	100	1 370 309 606 010	100	1 781 415 163 097	100
Health	48 009 724 549	4.4	49 609 895 796	3.6	53 790 965 188	3.01
Education	77 392 284 321	7.1	107 732 322 606	7.8	146 458 334 625	8.2

Source: Ministry of the Budget, Budget Act 2006, 2007, 2008.

With regard to the budget for disarmament, demobilization and reintegration programmes (DDR), it should be pointed out that in their phases I and II (under BUNADER (Bureau national de démobilisation et de réinsertion - National Demobilization and Reinsertion Office) and CONADER (Commission Nationale de la Démobilization et Reinsertion - National Commission for Demobilization and Reintegration)), which are now completed, budget appropriations for the DDR programme amounted to about US\$ 208 million, including a US\$ 108 million donation from the IDA/World Bank and US\$ 100 million from the Multi-Donor Trust Fund (MDTF). The funding was administered by the Committee for the administration of disarmament, demobilization and reintegration resources (CGFDR), established pursuant to Decree No. 03/043 of 18 December 2003. In its work on behalf of children, the DDR programme assisted 30,594 children released by the armed forces and armed groups through phases devoted to the search for families, family reunification and reintegration support.

Phase III, which is being carried out by the DDR implementation unit (UEPN-DDR), has received US\$ 72 million in funding, including US\$ 50 million from the World Bank and US\$ 22 million from the African Development Bank (ADB).

2. *With reference to children deprived of a family environment and separated from their parents, please provide disaggregated data (by sex, age group, and urban or rural area) for the years 2005, 2006 and 2007 on the number of children:*

- (a) *Separated from their parents;***
- (b) *Placed in institutions (give the number of institutions in the country);***
- (c) *Placed with foster families;***
- (d) *Adopted domestically or abroad.***

As indicated in paragraph 134 of the second report, children away from their families who live and work in the street have been estimated to number over 40,000 in the country's large urban areas, including 13,643 in Kinshasa (*Source:* REEJER, Summary of results of survey of street children in the city and province of Kinshasa, October 2006 and March 2007).

3. Please provide disaggregated data (by sex, age group and urban or rural area) on the number of children:

(a) and (b) Demobilized from the army and from armed groups;

By 31 December 2007, of the 39,594 children involved with armed forces and armed groups (EAFGA), 30,594, of whom approximately 12 per cent were girls, had been removed from the fighting forces of both the armed forces of the Democratic Republic of the Congo and armed groups (*Source*: UEPN-DDR, “Zero EAFGA” campaign in the DRC, May 2008).

As to the age of children involved in armed conflicts, the data from the field survey conducted by the Ministry of Justice and Human Rights in December 2007 and May 2008 in Bukavu, Bunia, Gbadolite, Kalemie and Kindu with public institutions, international organizations, national and international NGOs and children removed from the armed forces and armed groups indicated an average age of 12.5 years. The youngest child was 8 years old at the time of enlistment and the oldest 17 (unpublished report).

(c) Who have received counselling or support services;

(d) Reunited with their families or reintegrated into their communities.

Providing the necessary assistance for the physical and psychological rehabilitation as well as social reintegration of children who have left the armed forces or armed groups has been part of the DDR programme since its inception in 2001. Generally speaking, the process of psychological counselling and assistance in family and community reintegration is as follows:

(a) Children removed from the armed forces and armed groups whose families can be easily contacted are directly reunited with them as soon as they arrive at the “peace villages” (structures d’encadrement transitoire (SET));

(b) Children who must stay a little longer in the SETs receive a token “civilian life” kit containing clothing, shoes, bed linen and kitchen utensils. They are also given a medical examination. Counselling sessions are held with them throughout their stay at the centre. Their educational level is assessed, and children found to have very weak skills take remedial classes in reading and writing and in basic education (rules of good behaviour and manners). Other socio-cultural and sports activities are also organized.

At the same time, the search for families is started, followed, as appropriate, by mediation aimed at achieving reunification. If mediation fails or if the children are unable to find their biological family, they are placed with a “temporary foster family”, which is pre-selected by the DDR implementation unit in accordance with criteria set by the operating handbook on the prevention, withdrawal and care of children involved with armed forces and armed groups.

Reintegration is undertaken on the basis of the educational projects of the “peace villages” in the form of occupational or educational guidance. The following occupations are the most common:

- Bakery and confectionery trade
- Sewing and dressmaking
- Bicycle and motorcycle repairs
- Automobile mechanics
- Carpentry
- Metalworking
- Fishing, agriculture and animal husbandry
- Masonry and bricklaying

Follow-up and assessment activities are conducted at every stage.

The following table provides disaggregated figures for each of the country's 11 provinces (Bandundu, Bas-Congo, Equateur, Kasai Oriental, Kasai Occidental, Katanga, Kinshasa, Sud Kivu, Nord Kivu, Province Orientale and Maniema) regarding the type of reintegration assistance made available to the 30,594 children removed from the armed forces and armed groups (EAFGAs).

Disaggregated statistics on assistance to EAFGAs by category and province

	BBD	BC	EQ	K Or	K Oc	KT	KN	SK	NK	PO	MA	Total
EAFGAs removed	150	53	3 247	488	262	2 355	170	4 980	6 736	9 448	2 221	30 594
EAFGAs reunited with families	135	16	2 451	488	114	1 652	175	3 058	4 489	8 203	2 279	23 060
EAFGAs enrolled in school	1	5	210	86	4	628	0	312	2 078	2 335	872	6 531
EAFGAs trained	6	2	1 642	208	22	163	148	1 133	2 329	3 009	1 529	10 191
Total EAFGAs in economic reintegration	7	7	1 852	294	26	791	148	1 445	4 407	5 344	2 401	16 722
Estimated number of children awaiting reintegration: about 6,000.												

Source: Minister for Social Affaires, Report on follow-up and assessment of activities for the PNDDR (Programme National de désarmement, de démobilisation et de réinsertion - National Programme for disarmament, demobilization and reintegration)/children, December 2007.
