



Convention on the Rights of the Child

Distr.: General
22 July 2014

Original: English

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 Hungary 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 Hungary to the list of issues*

[Date received: 16 June 2014]

1. *Please provide information on the content of the courses conducted in secondary grammar schools and universities by the Hungarian Defence Forces Central Recruitment and Registry Command, and on the content of the “Katonasuli” classes (lessons on military issues). Please indicate whether the courses involve training in weapons handling.*

1. The “Katonasuli” (“MilitarySchool”) programme and its curriculum does not include any weapon handling training.
2. The “Katonasuli” (“MilitarySchool”) programme is held within the framework of the General Education Elective Graduation Subjects (GEEGS) of the secondary schools according to provisions of Decree of Minister of Human Resources No. 51/2012 (XII.12) on the approval and publication of national curriculum.
3. The teaching of basic military knowledge for 14-18 years old pupils helps them to comprehend the theoretical concepts such as patriotism and home defence. Teaching of this subject allows students to learn and master the characteristics of Hungary’s security policy and alliance policy, the rules regulating home defence and the structure and task of the

* The present document is being issued without formal editing.



Hungarian Defence Forces (hereinafter referred to as HDF). These skills develop and continually strengthen their loyalty to the home country and home defence.

4. The curriculum consists of the following thematic units:

- Security Policy Environment of Hungary
- The Hungarian Defence Forces
- Characteristics of today's armed conflicts
- Basic Knowledge on Mapping and Terrain
- General Military Knowledge
- The Structure and Regulation of the Home Defence of Hungary
- Medical Knowledge

5. The above mentioned are in accordance with the Governmental Decree No. 110/2012 (VI.4) on implementation and application of National Curriculum and also with the current graduation requirements.

6. In the civilian higher education institutions the goal of teaching the facultative Basic Home Defence Knowledge course is to provide the students with knowledge about security environment, national defence and the defence related obligations of the citizens.

7. The other goal is to provide them information about place and role of the HDF in the defence system; make them aware of its organizational structure, and important characteristics of its operation.

8. Students of this course are expected to be able to understand the key issues concerning Hungary's security and defence. In both cases, students may decide freely on taking these subjects or on their participation in the Military School programme. Participation in these programmes does not establish a legal relationship to the Hungarian Defence Forces.

2. Please provide information on higher military institutions in the State party, including the minimum age of admission, and indicate whether students under the age of 18, if admitted, are subject to military discipline and punishment.

9. At the Faculty of Military Science and Civil Defence Officer Training of the National Public Service University it is possible to take up studies as a civilian in the general course, but the Basic Military Training military course is only available for officer-candidates.

10. The status of officer-candidates is regulated by Act CCV of 2012 on Status of Defence Force and by the Act CXXXII of 2011 on the National Public Service University, public service, police and military higher education.

11. An officer-candidate student can be someone who chooses the military profession career, and following the successful enrolment and signing a scholarship contract, he/she will be in the service of the HDF as an officer candidate during the full time of the education.

12. The civilian students are entitled to the rights and duties provided under the Act CCIV of 2011 on the National Higher Education.

13. Those enrolled to the officer basic training sign a scholarship contract and become member of personnel of the HDF "Ludovika" Battalion's Forces. At the same time the candidate will have a student status as well with the military institution of higher education.

14. Enrolment is allowed for persons with the following qualifications:
- Has Hungarian nationality and full legal capacity
 - *Has reached the age of 18 by the time of starting the studies*, but does not reach the age of 25 in the year of the enrolment
 - Has a baccalaureate
 - Has the required level of language exam
 - Has passed the health, mental and physical eligibility assessment and proved to be eligible on the test about orientation profession eligibility
15. For the non-commissioned officer education a person is eligible for enrolment, if he/she reached the age of 18, but under the age of 23 in the enrolment year, has full legal capacity, has Hungarian nationality and meets the requirements of health, mental and physical eligibility based on regulation.
16. An additional condition of the non-commissioned officer education is that the student accepts national security clearance check, and undertakes the establishment to serve as a non-commissioned officer-candidate for the duration of the education.
17. Additional requirements are clear criminal record, certificate from high school or the expectation of obtaining such certificate in the year of enrolment and basic level English language exam.
18. At the HDF Non-Commissioned Officer Academy the 2 year full-time school-based training is available only for non-commissioned officer-candidate (not for civilians).
19. The status of non-commissioned officer candidates is regulated by Act CCV in 2012 on Status of Defence Forces, and Act CXC on 2011 on National General Education.
20. The non-commissioned officer after the successful enrolment also signs a scholarship contract, and for the duration of the full-time training he/she will remain non-commissioned officer - candidate service relationship with the HDF.
21. As noted above, the military training institutions is opened only for citizens who have reached the age of 18.
3. *With regard to the newly established military school in Debrecen, please clarify:*
- (a) *The minimum age of admission;*
 - (b) *The proportions of academic and military training, including training in weapons handling, on the curricula;*
 - (c) *Whether pupils are subject to military discipline and punishment;*
 - (d) *Whether pupils have access to an independent complaints and investigation mechanism.*
22. The full name of Debrecen school is Dénes Gábor Technical High School of Electronics and Hall of Residence.
- (a) According to the Act CXC in 2011 on National General Education the pupil status is established by enrolment or by taking over from other institution. The condition of establishing a high school pupil status is having completed basic education (primary school) and having met the requirements of the institution. Since completion of basic education is at least at the age of 14, pupils applying to high schools are on average 14 to

15 years old, therefore the same is true for candidates of Gabor Electronic Technical High School and Hall of Residence, too.

(b) The education is implemented as explained in section 1, except that every pupil attending the school receives Basic Military Knowledge subject as part of graduation education. They do not learn any other military-related subjects, the education curriculum does not contain the training for weapon handling or shooting exercises.

- Generally speaking, 94 % of lessons contain general education and vocational skills, while only 6% contain defence skills.

(c) Only those disciplinary procedures and penalties can be used against pupils which are regulated by Act CXC in 2011 on National General Education. Therefore the pupils are not subject to any military discipline or punishment, especially that they do not have any legal relation with the HDF.

- Pupils apply to the school voluntarily and they can at any time request the continuation of their studies in another public educational institution without any negative consequences.

(d) The students may report their complaints to the student board (elected by students) or to the Hall of Residence board (elected by students) or to the Central Student Board of the City of Debrecen or to the parents' association of the school or school council¹ according to the Act CXC in 2011 on National General Education Article 48 and Article 73. In addition, the students and their parents at any time directly refer with a complaint to the director or any teacher of the institution.

- If the answer given by the above-mentioned bodies is not satisfactory to the parents or students, they can refer their complaints to the Education Department of the local Office of Government or they can turn to the Office of Education Rights of Ombudsman (according Education Ministerial Decree No. 40/1999 (X. 8)).
- The school properly ensures the graduation and electronic professional training of the students as it is part of the state public education system, and follows the National Curriculum Framework.
- The school performs its tasks in accordance with home defence educational programme, and not military programme, so instead of the HDF training system the school operates in public education system in compliance with relevant legal regulations and with the Optional Protocol to the Convention on the Rights of the Child on the involvement children in armed conflict.

4. *Please indicate whether members of the Hungarian Defence Forces deployed in peacekeeping missions abroad receive training on the provisions of the Optional Protocol.*

23. Personnel of foreign peacekeeping deployed by the Hungarian Defence Forces receive during preparation training on general international law and law of armed conflict. Within this the protection and rights of children are particularly mentioned, but not

¹ School council describes the best way what is this organization, because it is special democratic solution for operating a school. The teachers, the parents and the student self- government are equally represented in this independent organization. They have right to decide in questions are signed to them by the principal or by the teachers association or by the maintainer of the school. The Act CXC in 2011 does not contain this organization, but it defines the institutional council which involve larger interested group of people to the operation of the school. The KatonaSuli decided against the establishment the institutional council since the school council operating just fine.

necessarily referring specifically to the Optional Protocol rather referring the rights and protection of children in general.

24. Thus, for example, the education material includes the rights of children in the IMOC (International Military Observer Course) trainings which are held twice a year. In other preparation training the issue of protection of children takes place within the international humanitarian law and the gender issues.

5. Please provide detailed information on mechanisms for the early identification of children who are refugees, asylum seekers or migrants and who may have been recruited or used in hostilities abroad. Please provide information on steps taken to provide for their physical and psychological recovery and rehabilitation and to promote their reintegration into society.

I. Identification of refugee, asylum seeker and migrant children in Hungary

25. Article 2 of Act LXXX of 2007 on Asylum (hereinafter: Asylum Act) defines the notion of “person in need of special treatment”. According to the definition enshrined in Article 2 lit. k), a person in need of special treatment is an unaccompanied minor or a vulnerable person, in particular, a minor, elderly or disabled person, pregnant woman, single parent raising a minor child and a person who has suffered from torture, rape or any other grave form of psychological, physical or sexual violence who have special needs because of his/her individual situation found after proper individual assessment. In course of implementing the provisions of the Asylum Act and the Government Decree No. 301/2007 (XI.9.) on the implementation of the Act on Asylum (hereinafter: Government Decree) the best interests and rights of the child shall be a primary consideration and the provisions shall be applied to all persons in need of special treatment with due consideration of the specific needs arising from their situation. The refugee authority (the Office of Immigration and Nationality) first examines whether the rules applicable to persons in need of special treatment can be applied in the case of the asylum-seeker. In order to determine whether the person is in need of special treatment, the refugee authority may use the assistance of a medical or psychological expert. After determining their minor status, unaccompanied minors are placed in a child protection institution in the city of Fót that provides adequate care for them. The Asylum Act also provides that the asylum procedure of unaccompanied minor applicants shall be prioritised.

A. Recovery

26. The refugee authority contacts the health care or competent child care institution, in order to ensure that minors who have been victims of rape, serious neglect, exploitation, torture or cruel, inhuman or degrading treatment or who have suffered trauma during armed conflicts receive the appropriate rehabilitation, mental health care and qualified counselling in case of need. The refugee authority provides separated accommodation at the reception centre for asylum-seekers who have special needs. Attention is paid to the particular needs of any person in need of special treatment. During their stay at the reception centre, mental hygiene and health care are provided for them advancing their physical, mental, emotional and moral development that are adequate for the child’s age, health condition and other needs. The child protection institution provides adequate support for unaccompanied minors as well.

B. Integration

27. The Migration Strategy and the seven-year strategic document related to Asylum and Migration Fund established by the European Union for the years 2014-20 was adopted by the Hungarian Government in October 2013 (Government Decision No. 1698 of 2013). The Migration Strategy lays down the action trail and the tools for achieving the goals related to international protection and integration in a comprehensive manner. The main aim is to increase the protection of unaccompanied and separated children who are refugees or beneficiaries of subsidiary protection. Unaccompanied and separated children who are recognized as refugees or beneficiaries of subsidiary protection face numerous disadvantages after leaving the childcare institutions. Providing post-care support for them is crucial to ensure their protection and to assist them in integrating during their stay in the institution and when they leave the institution to begin an independent life.

II. Identification of refugee, asylum-seeker or migrant children abroad

28. If the personnel of Hungarian Defence Forces encounter an under-aged child soldier, they must observe the international humanitarian law regulations.

29. Depending on their mandate, the peacekeeping troops can gather information and prepare a report on the use of the child soldiers.

30. However, the HDF is not responsible for the reintegration of child soldiers, their physical and mental healing, and their rehabilitation. Thus “Early Identification Mechanism” can be understood only as the identification of the age of the child soldiers.

31. During the foreign military missions, however, the HDF personnel by definition can not encounter proper asylum seekers, because the asylum application can not be submitted in the country of origin. By definition it is a basic requirement to be defined as asylum-seeker or refugee to have left the country of origin.

32. Should they meet exceptionally such case, the HDF is entitled neither to administer the case nor to take other measures.

33. The asylum application may be submitted at the Hungarian embassy or consulate, but not at the military body who is serving in the mission.

34. If the question relates to the situation when Hungarian soldier encounters an immigrant child soldier to whom international protection (refugee status or asylum-seeker) has been granted by the peacekeeping mission’s partner state, the abovementioned procedure to be followed.

6. Please indicate whether national legislation prohibits the trade and export of arms, including small arms and light weapons, and military assistance to countries where children are involved in armed conflict.

I. Rules prohibiting trade of weapons

35. There are numerous international regulation and national rules that provides for the firearms and within the small and light arms including their trade.

36. The obligations defined in the following regulations set up a strict and closed framework on possess, trade and export of weapons.

A. International commitments

1. The Arms Trade Treaty

37. In Hungary the Parliament adopted on 6 of February 2014 the Act V in 2014 in which Hungary accepted the mandatory effect of Arms Trade Treaty that was originally adopted by the United Nations General Assembly on 2 of April 2013.

38. According to the Treaty, States Parties shall prohibit all foreign trade on weapons, which fall within the scope of the Treaty, and its foreign trade could mean the violation of obligations that are issued from measures and adopted by the United Nations Security Council according to the Chapter VII of the Charter of the United Nations, particularly violation of obligation link to embargo of weapons.

39. Furthermore, States Parties shall take into account under the Convention all relevant factors and information – even information on not-prohibited exports – due to the weapons and other items exports would contribute to peace and security or undermine them. In addition they shall take into account all information that can be used to commit or to facilitate the commission the offense or serious violations of international humanitarian law and commit or facilitate commission of serious violations of international human rights law.

40. The States Parties shall take appropriate measures in order to enforcing the national acts and regulations are implementing the obligation of Convention.

2. EU obligations

41. Within the framework of the Common Foreign and Security Policy different restrictive provisions are applied based on the objectives set out in the Treaty on European Union. These limits are in most of the cases targeted the governments of third countries, non-governmental bodies or persons.

42. The most frequently applied restriction is the embargo of weapons which aims to prevent excessive flow of a variety of weapons and military equipment into conflicted areas as well as regimes, which are likely to be applied for internal oppression or aggression against another state.

43. In case that the Union adopts such a restriction against a State, all Member States including Hungary shall observe them.

44. In some cases, it is possible that despite the a weapon embargo Member State may carry non-lethal equipment if needed for humanitarian or protective usage, institutional development programmes, and crisis management operations or using for mine sweeping.

45. Furthermore the European Union regulates in several mandatory provisions the handling of different weapons, their foreign trade and their registration. The regulations define strict obligations to the Member States and export of weapons is only possible if having the appropriate government licenses.

B. National regulation

1. Governmental Decree No. 253/2004 (VIII.31) on Weapons and Ammunition

46. This decree regulates the manufacturing of variety of weapons, their distribution, repair, deactivation, display, and rules concerning the licensing.

47. Unless provided otherwise in this decree, license for arms exports, imports, transit permission can be issued to who (which) hold a license for its production, distribution or entitlement.

48. Export of goods are defined in Annex I of Regulation 258/2012/EU needs licenses as provided in Annex II of Regulation 258/2012/EU for transportation in commercial purposes from the custom territory is necessary export.

2. Act C of 2012 on Criminal Code

49. Criminal Code defines the abuse of firearms and their trade as crimes:

Section 325. Abuse with Firearms and Ammunition

Any person who:

- (a) Obtains or possesses a firearm without authorization;
- (b) Makes or places on the market firearms without authorization;
- (c) Imports or exports, or transports in transit through the territory of Hungary firearms without authorization, or by exceeding the scope of the authorization;
- (d) Exceeds the scope of the authorization relating to the making, obtaining, possession of or trade in, firearms;
- (e) Transfers his licensed firearm to a person who has no license;

is guilty of a felony punishable by imprisonment between two to eight years.

Section 326 of the Criminal Code punishes the person who transports in transit weapons prohibited by international conventions in the territory of the country or export them.

Section 326 of Criminal Code

(1) Any person who:

- (a) Develops, manufactures;
- (b) Obtains, uses or possesses, or decommissions without authorization;
- (c) Transfers to a person without proper authorization, imports or exports, or transports in transit through the territory of Hungary; weapons prohibited by international convention is guilty of a felony punishable by imprisonment between five to fifteen years.

(2) Any person who constructs or operates a facility for the production of weapons prohibited by international convention without authorization, or does so in derogation from the authorization, or converts an existing facility for the production of such weapons shall be punishable according to Subsection (1).

(3) Any person who:

- (a) Provides technical assistance for the development, manufacture, assembly, quality control, operation, maintenance or repair of weapons prohibited by international convention.

Section 327 of Criminal Code - Violation of International Economic Restrictions – regulates those who violates the economic, trading or financial restriction that imposed on the basis of an obligation to which Hungary is committed under international law; or ordered in regulations adopted under Article 75 and Article 215 of the Treaty on the Functioning of the European Union, or in regulations and decisions adopted by authorization of these regulations; or ordered in the Council decision adopted under Article 29 of the Treaty on the European Union.

Section 327 para 3 punishes separately if the crime committed in connection with trafficking in firearms, ammunition, explosives, blasting agents or equipment for the use thereof, or of any product designed for military use.

Section 329. Abuse with Military Items and Services

It is prohibited to place on the market, import or export or transport in transit through the territory of the country military items or prohibited military items without authorization or by exceeding the scope of authorization.

It is also prohibited to provide technical assistance in connection with any military application to a country that is subject to an arms embargo imposed by a resolution that is considered binding upon Hungary under international commitment.

II. Providing military assistance to countries is in armed conflict and children are participated

50. Trafficking in Persons' report says that over the past year, a 30% increase occurred in the number of countries that recruit child soldiers and used them in their army.

51. According to the report, currently 10 countries use child soldiers in Chad, South Sudan, Yemen, Democratic Republic of the Congo, Central African Republic, Myanmar (Burma), Rwanda, Syria, Somalia, Sudan.

52. The European Union and the United Nations have binding weapon embargo regulations with the most of the listed countries. Hungary also observes these regulations.

53. Regarding the named countries there is neither the United Nations either the EU legislation, that would impose restrictions on the export of weapons.

54. Nevertheless, in exporting arms to these countries it is prohibited, whether there is an embargo against these countries or not, since various international documents, such as Arms Trade Treaty defines rules that prohibit the export of these devices even in absence of arms embargo.

III. Summary

55. According to the laws in force in Hungary, as well as the international treaties and conventions binding on Hungary, firearms only be marketed in Hungary by the strict rules, and these items can be exported only if the proper permits and conditions are granted.

56. Regarding the international obligations relating to Hungary, any export involving firearms prohibited if it is directed to a State in armed conflict and where children can participate as members of a fighting force.

7. Please indicate whether the State party can establish and exercise extraterritorial jurisdiction over all offences under the Optional Protocol.

57. According to Section 3 of the Hungarian Criminal Code:

- (1) Hungarian criminal law shall apply:
 - (a) To criminal offenses committed in Hungary;
 - (b) To criminal offenses committed on commercial ships or watercraft sailing, or aircraft flying under Hungarian flag outside the territory of Hungary;
 - (c) To any act of Hungarian citizens committed abroad, which are criminalized in accordance with Hungarian law.

- (2) Hungarian criminal law shall, furthermore, apply:

- (a) To any act committed by non-Hungarian citizens abroad, if:
 - (aa) It is punishable as a criminal offense under Hungarian law and in accordance with the laws of the country where committed;
 - (ab) It is recognized as an offense against the State, excluding espionage against allied armed forces, regardless of whether or not it is punishable in accordance with the law of the country where committed;
 - (ac) It constitutes a criminal act under Chapter XIII or XIV, or any other criminal offenses which are to be prosecuted under international treaty ratified by an act of Parliament.

- (b) To any act committed by non-Hungarian citizens abroad against a Hungarian national or against a legal person or unincorporated business association established under Hungarian law, which are punishable under Hungarian law.

- (3) In the cases described in Subsection (2) criminal proceedings are opened by order of the Prosecutor General.

58. According to the Act XIX of 1998 *on Criminal Procedure* Section 11 in cases falling under Hungarian criminal jurisdiction [Sections 3 and 4 of Criminal Code] the proceedings shall be conducted in accordance with this Act.

59. The Optional Protocol to the Convention on the Rights of the Child on the involvement of the children in armed conflict was promulgated and confirmed by the Act CLX of 2009.

60. Therefore the condition defined in Section 3. para 2. subpara. (ac) Criminal Code was fulfilled, and the Hungarian Criminal Code shall be also applied to an offence committed abroad by a non-Hungarian citizen if this offense is listed on the Optional Protocol.

61. The Criminal Code punishes all criminal offences listed in the Optional Protocol:

- Kidnapping – Section 190
- Trafficking in Human Beings – Section 192
- Assistance for Prostitution in Section 201
- Exploitation of Child Prostitution – Section 203
- Child Pornography – Section 204