



Convention on the Rights of the Child

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Committee on the Rights of the Child

Fifty-fourth session

25 May - 11 June 2010

Consideration of reports submitted by States parties under article 8 of the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict

Concluding Observations: Serbia

1. The Committee considered the initial report of Serbia (CRC/C/OPAC/SRB/1) at its 1504th meeting (see CRC/C/SR.1504), held on 26 May 2010, and, at its 1541st meeting, held on 11 June 2010, adopted the following concluding observations.

Introduction

2. The Committee welcomes the submission of the State party's initial report under the Optional Protocol and the written replies to its list of issues (CRC/C/OPAC/SRB/Q/1/Add.1). The Committee nevertheless regrets that the State party report was not prepared according to the guidelines for reporting under the Optional Protocol.

3. The Committee reminds the State party that these concluding observations should be read in conjunction with the concluding observations adopted on the State party's initial report on the Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography contained in CRC/OPSC/SRB/CO/1 and its previous concluding observations adopted on the State party's initial report of 6 June 2008 contained in CRC/C/SRB/CO/1.

Positive aspects

4. The Committee notes with appreciation the provision in the Law on Military, Labour and Material Duty (adopted in October 2009) which provides that persons under the age of 18 will not be sent on compulsory military service.

5. The Committee welcomes the ratification by the State party of the Optional Protocol on the sale of children, child prostitution and child pornography in 2002.

I. General measures of implementation

National plan of action

6. The Committee regrets that the draft National Plan of Action for Children contains no strategic goals or provisions specifically related to the Optional Protocol and that it does not make reference to peace education or dissemination of the provisions of the Optional Protocol.

7. The Committee recommends that the State party include goals, provisions, activities and resources related to the implementation of the Optional Protocol in the National Plan of Action.

Coordination and evaluation

8. The Committee notes that the Ministry of Human and Minority Rights is the body collecting information in order to coordinate the implementation of the rights of the child and of the Optional Protocol. However, it is unclear to what extent this function is exercised consistently and systematically, especially in the areas of competence of the Ministries of Defense and of Foreign Affairs. The Committee furthermore regrets the lack of a mechanism or procedure established for the evaluation of the implementation of the Optional Protocol at the national and local levels.

9. The Committee recommends that the State party establish an effective coordination body that involves all actors, including civil society, concerned with the implementation of the Protocol. The Committee further recommends that a periodic evaluation mechanism, provided with adequate human, financial and technical resources, be developed to evaluate compliance with the Optional Protocol.

Dissemination and awareness

10. The Committee appreciates the assurance given by the State Party during the dialogue to increase awareness raising on the Optional Protocol among the general public.

11. The Committee recommends, in light of article 6, paragraph 2 of the Optional Protocol that the State party ensure that the principles and provisions of the Optional Protocol be widely disseminated to the general public, including children and State officials.

Training

12. The Committee notes with appreciation that participants in peacekeeping operations receive training on human rights, including child rights, and the oral information provided by the State during the dialogue that the knowledge on the Optional Protocol among the military is high. The Committee is concerned, however, that relevant professional groups working with children may not receive sufficient training on the provisions of the Protocol.

13. The Committee recommends that the State party develop systematic education and training programmes on the provisions of the Optional Protocol for all relevant professional groups working with children, notably police officers, lawyers, prosecutors and judges, teachers, health professionals and social workers.

II. Prevention

Compulsory recruitment

14. The Committee notes with appreciation that recruits are only sent on military service in the calendar year they turn 19 years old and the indication given by the delegation during the dialogue that the Law on Military, Labour and Material Duties explicitly prohibits persons under the age of 18 from joining the armed forces in all circumstances, including in state of war and state of emergency.

15. The Committee recommends that the State party proceed to amend the declaration made upon ratification of the Protocol, in order to reflect the new legislation.

Military schools

16. While noting the information provided by the State party during the dialogue, that there is a complaints mechanism under the Ministry of Defence and the Ministry of Education, the Committee regrets that an adequate impartial complaints mechanism for children attending the Military Grammar School appears to be lacking.

17. The Committee recommends that the State party provide children attending the Military Grammar School with adequate access to independent complaints mechanisms.

Peace education

18. While noting that there have been some initiatives to include peace education in civic education courses in primary and secondary schools, the Committee regrets that these courses are optional.

19. The Committee recommends, in line with its general comment No. 1 on the aims of education, that the State party systematically includes peace education in school curricula, with special reference to crimes covered by the Optional Protocol.

III. Prohibition and related matters

Criminal legislation and regulations in force

20. While noting that there are no armed groups in the State party, the Committee is concerned that there is no explicit provision criminalizing the recruitment of children by armed groups that are distinct from the armed forces of the State.

21. The Committee recommends that the State party include an explicit provision in the Penal Code to criminalize the recruitment of children into armed groups that are distinct from the armed forces of the State.

Jurisdiction and extradition

22. The Committee notes that extraterritorial jurisdiction may be exercised subject to approval by the Public Prosecutor of Serbia. However it regrets that the penal legislation does not allow extraterritorial jurisdiction in all cases such as that referred to in article 4, paragraph 2 of the Optional Protocol. Furthermore, the Committee is concerned that

extraterritorial jurisdiction is subject to the criterion of double criminality and that extradition is subject to the criterion of reciprocity.

23. The Committee recommends that the State party take steps to ensure that domestic legislation enables it to establish and exercise extraterritorial jurisdiction over war crimes of conscription and enlistment of children in hostilities and further recommends establishing extraterritorial jurisdiction over crimes under the Optional Protocol without the criterion of double criminality.

IV. Protection, recovery and reintegration

Assistance for physical and psychological recovery

24. The Committee regrets the paucity of information on measures taken to identify children entering Serbia who may have been involved in armed conflict abroad.

25. The Committee recommends that the State party establish an identification mechanism for children, including asylum-seeking, refugee children and unaccompanied children, who may have been involved in armed conflict abroad. The Committee further recommends that the State party take measures to provide these children with appropriate assistance for their physical and psychological recovery and their social reintegration.

V. International assistance and cooperation

International cooperation

26. The Committee encourages the State party to support multilateral and bilateral activities to address the rights of children involved in armed conflict, in particular by promoting preventive measures as well as physical and psychological recovery and social reintegration of child victims of acts contrary to the Optional Protocol.

Arms export

27. The Committee encourages the State party to fully implement the national legislation which prohibits any sale of arms when the final destination is a country where children are known to be, or may potentially be recruited or used in hostilities.

VI. Follow-up and dissemination

28. The Committee recommends that the State party take all measures to ensure the full implementation of the present recommendations by, inter alia, transmitting them to the Ministry of Defense and other relevant Ministries, the National Assembly, the Supreme Court and to all relevant national and local authorities, for appropriate consideration and further action.

29. The Committee recommends that the initial report and written replies submitted by the State party and the related concluding observations adopted by the Committee be made widely available to the public at large, including (but not exclusively) through the Internet, civil society organizations, youth groups, professional groups, including social workers, the media and children, in order to generate debate and awareness of the Optional Protocol, its implementation and monitoring.

VII. Next Report

30. In accordance with article 8, paragraph 2, the Committee requests the State party to include further information on the implementation of the Optional Protocol in its next periodic report under the Convention on the Rights of the Child, in accordance with article 44 of the Convention, due on 12 March 2013.
