



# Convention on the Rights of the Child

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## Committee on the Rights of the Child

### Consideration of reports submitted by States parties 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

Reports of States parties due in 2008

**Latvia\***

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\* The present document is being issued without formal editing.

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## Abbreviations

MSL	Military Service Law
CL	Criminal Law
NAF	National Armed Forces
MoES	Ministry of Education and Science
CPL	Criminal Procedure Law

## I. General information

1. On 7 October 2005 the Saeima [the Parliament of the Republic of Latvia] adopted and the President proclaimed the Law On the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict (published in *Latvijas Vēstnesis* [the official Gazette of the Government of Latvia], 160 (3318), 7 October 2005; *Ziņotājs*, 20, 27 October 2005), which came into force on 7 October 2005 and by which the Optional Protocol was adopted and approved. In accordance with Section 2 of this Law the Ministry of Welfare shall co-ordinate the fulfilment of the liabilities provided for in the Optional Protocol.

2. The second periodic report of the Republic of Latvia on fulfilment of the Convention on the Rights of the Child of 20 November 1989 (hereinafter – Convention) was considered at meetings 1124th and 1126th of the Committee on the Rights of the Child (hereinafter – Committee) on 16 May 2006. According to the concluding observations of the Committee (CRC/C/LVA/CO/2) the Republic of Latvia was encouraged to submit the initial report on its fulfilment of the liabilities provided for in the Optional Protocol (para. 67). The Committee invites Latvia, if possible, to submit the initial report under the Optional Protocol on the involvement of children in armed conflict concurrently with the initial report under the Optional Protocol on the sale of children, child prostitution and child pornography which would facilitate the review of both reports.<sup>1</sup>

3. The initial report on the implementation of the Optional Protocol on the involvement of children in armed conflict was prepared by the Ministry of Welfare. Information was received from the Ministry of Justice, the Ministry of Foreign Affairs, the Ministry of Health, the Ministry of Defence, the Ministry of Education and Science, the Ministry of the Interior and the Latvian Red Cross.

4. According to the division of competencies, the introduction of the requirements included in the Optional Protocol is mainly within the competence of the Ministry of Defence and the Ministry of the Interior. These ministries oversee issues related to enrolling of persons in national military structures (army, national guard, services of the interior system – police, border guard, etc.). In turn, the Ministry of Welfare is the managing State administrative authority in the field of the rights of the child, and the Ministry has a duty to develop the policy on the rights of the child and family, as well as to organise and co-ordinate the implementation thereof (sub-paragraphs 4.1 and 4.2 of Cabinet Regulation No. 49 of 27 January 2004, By-law of the Ministry of Welfare).

5. On 6 April 2006 the Saeima adopted the Ombudsman Law (came into force on 1 January 2007). The Ombudsman has the following functions: to promote the protection of the human rights of a private individual; to promote the compliance with the principles of equal treatment and prevention of any kind of discrimination; to evaluate and promote the compliance with the principles of good administration in the State administration; to discover deficiencies in the legislation and the application thereof regarding the issues related to the observance of human rights and the principle of good administration, as well

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<sup>1</sup> In accordance with Section 2 of the Law On Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography the Ministry of the Interior shall co-ordinate the fulfilment of the liabilities provided for in the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography. In accordance with Section 2 of the Law On Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflicts the Ministry of Welfare shall co-ordinate the fulfilment of the liabilities provided for in the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflicts.

as to promote the rectification of such deficiencies; and to promote public awareness and understanding of human rights, of the mechanisms for the protection of such rights and the activities of the Ombudsman (Section 11). One of the priority fields of action in the Strategy of the Ombudsman 2011-2013 is the rights of the child.<sup>2</sup>

6. The Protection of the Rights of the Child Law (adopted by the Saeima on 8 July 1998) includes one of the basic principles of the Convention on the Rights of the Child, providing for compliance with the interests of a child in solving any issue. It is provided for in Section 6 of the Protection of the Rights of the Child Law that in lawful relations that affect a child, the rights and best interests of the child shall take priority and impose a duty of ensuring the rights and interests of the child on any State or local government institution, public organisation or other natural person and legal person, as well as the courts and other law enforcement institutions in all activities in regard to a child.

7. In accordance with Section 2, paragraph 3 of the Protection of the Rights of the Child Law, protection of the rights of the child is an integral part of State policy. The State and local governments shall organise and monitor the protection of the rights of the child throughout the territory of the State. In accordance with the Protection of the Rights of the Child Law, the State shall ensure the rights and freedoms of all children without any discrimination – irrespective of race, nationality, gender, language, political party alliance, political or religious convictions, national, ethnic or social origin, place of residence in the State, property or health status, birth or other circumstances of the child, or of his or her parents, guardians, or family members.

8. The duty of the State to protect children from exploitation and sale, also such exploitation and sale, which is related to involvement of children in armed conflicts, has been set out in the Protection of the Rights of the Child Law. In accordance with Section 15, paragraph 2 of the referred Law, a child has the right to be protected from physical and mental exploitation, from sexual exploitation and seduction, and from any other forms of exploitation, which may in any way harm the child.

9. In accordance with Section 68 of the Constitution and Sections 8 and 11 of the Law on International Agreements of the Republic of Latvia, the legal norms included in the Optional Protocol are recognised as binding to Latvia. In accordance with Section 13 of the referred to Law, if the international agreement ratified by the Saeima provides for different provisions than legal acts of the Republic of Latvia, the provisions of the international agreement shall be applied. It means that the legal norms included in the Optional Protocol are not above the Constitution; however, they are a part of the law of Latvia. In such case the Optional Protocol holds the position of a law, because it has been adopted and ratified by law. In compliance with the aforementioned, the legal norms included in the Optional Protocol may be applied directly and a person has the right to request that his or her rights and interests infringed are protected on the basis thereof.

10. As Latvia is one of co-sponsors of the Declaration of the Rights of the Child (proclaimed by the General Assembly of the United Nations Organization on 20 November 1959), it supports the United Nations efforts to advance the issue regarding children in armed conflict on its political agenda (particularly by creating the position of the United Nations Special Representative for Children and Armed Conflict, the Security Council Working Group on Children and Armed Conflict and the Security Council Resolution 1612 mechanism). Latvia as a European Union (EU) Member State supports the joint position of the EU in relation to provision of aid to children involved in armed conflicts in accordance with the European Union guidelines on children and armed conflict (adopted in 2003, amended in 2008).

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<sup>2</sup> [http://www.tiesibsargs.lv/lat/tiesibsargs/majas\\_lapas\\_jaunumi/?doc=664](http://www.tiesibsargs.lv/lat/tiesibsargs/majas_lapas_jaunumi/?doc=664).

11. For training and vocational further education of officials of the State Police, the State Police College is implementing a vocational initial education programme “Police Work”, and a first level vocational higher education programme “Police Work”, as well as offering vocational in-service training courses and different programmes, adapted to the official duties to be carried out by a police official.

12. Within the scope of vocational in-service training the State Police College regularly organises vocational in-service training courses such as “Protection of the Rights of the Child”, “Conformity with Human Rights in Work of the State Police”, “Human Rights. Racism Issues”. The objective of courses is to extend knowledge and develop skills, which are necessary in order to ensure successful protection of human rights and rights of the child in police work, to supplement knowledge regarding the human rights protection system, regulatory enactments and application of international legal acts in protection of the rights of the child, as well as to evaluate the co-operation between State and local government institutions, public and non-governmental organisations with respect to issues of protection of human rights and rights of the child. In addition it should be indicated that issues related to the application of legal norms to the field of protection of human rights and rights of the child are also included in the licensed vocational in-service training programmes implemented by the State Police College.

13. Officials of the State Border Guard have participated in training seminars considering issues regarding human trafficking and compliance with human rights. Topics regarding constitutional rights and freedoms of people and citizens, entering and residence of minor foreigners in the Republic of Latvia, the rights and duties of an asylum seeker (unaccompanied minor) are considered within the scope of a study programme of the State Border Guard College.

14. The main regulatory enactments ensuring fulfilment of liabilities of the Optional Protocol are set out below:

<i>No</i>	<i>Regulatory enactment</i>	<i>Conditions of regulatory enactment</i>
1.	Protection of the Rights of the Child Law	The purpose of this Law is to set out the rights and freedoms of a child and the protection therefore, taking into account that a child as a physically and mentally immature person has the need for special protection and care. This Law also regulates the criteria by which the behaviour of a child shall be controlled and the liability of a child shall be determined, regulates the rights, obligations and liabilities of parents and other natural persons and legal persons, as well as the State and local governments in regard to ensuring the rights of the child, and determines the system for the protection of the rights of the child and the legal principles regarding its operation.
2.	Military Service Law	The purpose of this Law is to ensure a unified course of military service in the National Armed Forces.
3.	Law On the Career Course of Service of Officials with Special Service Ranks Working in Institutions of the System of the Ministry of the Interior and the	The purpose of this Law is to specify the legal status of professional service in institutions of the system of the Ministry of the Interior and the Prisons

<i>No</i>	<i>Regulatory enactment</i>	<i>Conditions of regulatory enactment</i>
	Prisons Administration	Administration in order to ensure legal, persistent, efficient and open operation of the institution.
4.	The Criminal Law	The purpose of the Criminal Law is to provide for liability for the performance of activities prohibited by the Law and to punish the persons who committed them.
5.	National Guard of the Republic of Latvia Law	The purpose of this Law is to involve the citizens of Latvia in State defence. The Law prescribes the tasks and structure of the National Guard of the Republic of Latvia and the course of service of national guardsmen.
6.	Law On Repealing of the Mandatory Military Service Law	In accordance with this Law the Mandatory Military Service Law is repealed. The Law has been adopted by the Saeima on 2 November 2006, the law came into force on 1 January 2007.
7.	Mandatory Military Service Law	This Law prescribes the basic legal, economic and social provisions for mandatory military service. Its purpose is to ensure the National Armed Forces with mandatory military service soldiers and to involve the citizens of Latvia in defence of the State. This Law was repealed on 1 January 2007.
8.	Cabinet Regulation No. 1613 of 22 December 2009, Procedures for the Provision of Emergency Assistance to a Child who has Suffered from Illegal Activities (in force from 1 January 2010; from 17 September 2008 until 31 December 2009 Cabinet Regulation No. 719 of 8 September 2008, Procedures for the Provision of Emergency Assistance to a Child Who Has Suffered from Illegal Activities, was in force; from 1 January 2000 until 16 September 2008 Cabinet Regulation No. 208 of 8 June 1999, Procedures for Provision of Emergency Assistance to a Child who has Suffered from Illegal Activities, was in force).	Regulation prescribes the procedures by which a child who is a victim of illegal activities – a criminal offence, exploitation, sexual abuse, violence or any other unlawful, cruel or demeaning act – shall be provided with emergency assistance from funds of the State budget so that the child might regain physical and mental health and integrate into society, including the procedures by which the foundation Latvijas Bērnu fonds [Latvian Children's Fund] shall organize the provision of social rehabilitation services from funds of the State budget for children who have suffered from violence, and the conditions for fulfilment of such task delegated by the State.

## II. Prevention

15. Latvian citizens who have reached 18 years of age and who according to their psychological characteristics, physical fitness and health condition conform to the requirements for service in the State Police of the Ministry of the Interior, have the right to

apply for studies in the vocational initial education programme and full-time/part-time studies in the first level of the vocational higher education programme of the State Police College.

16. A person studying in the vocational initial education programme obtains qualification “Rank-and-file Police Officer”; the duration of studies is one year (theoretical studies last 29 weeks, qualification traineeship – 12 weeks). During studies the student receives work remuneration, is ensured with a place in the official accommodation facility, as well as after successful acquisition of the study programme, the student is ensured with a job in the State Police. The student obtains qualification “Police Officer of the Middle Commanding (Junior Officers) Position” in the first level vocational higher education programme “Police Work” (in full-time and part-time studies). The duration of studies in full-time studies is 2.5 years, part-time studies – three years. The study plan of the vocational initial education programme includes several study subjects (Rights of the Police, Service of Policeman), in which cadets acquire knowledge and understanding regarding work organisation, professional ethics and behaviour of the police, as well as the activities of the police in the field of human rights, protection of the rights of the child, application of international and national legal acts in the protection of human rights and rights of the child. The content of the first level vocational higher education programme contains several study courses (Protection of the Rights of the Child, Human Rights in Work of the Police, Rights of the Police, Professional Psychology, Professional Communication), in which students acquire in-depth knowledge and understanding regarding general issues of human rights, the requirements for the compliance with human rights in work of the police, the system for the protection of the rights of the child, application of international and national legal acts in protection of the rights of the child. Students also acquire knowledge regarding the psychological aspects of interrogating minors, the age specificities of children, crisis situations involving children with addiction problems, as well as develop communication skills, which are necessary in order to ensure successful protection of the rights of the child in work of the police.

17. In assessing the subjects and study courses implemented in the State Police College in percentage, 65 per cent of all subjects included in the study plan are practical lessons (20 per cent of which are study and training courses of military nature “Warding off of an Attack and Defence Tactics”, “Shooting”, “Strategy for Evaluation of the Necessity of Shooting”, “Professional Physical Preparation”, etc.), and 35 per cent are academic and theoretical lessons. Education process of the State Police College is implemented by 33 lecturers, and 20 per cent of them are officials in different units of the State Police.

18. Students of the State Police, as any Latvian citizen, have access to an independent mechanism for reviewing complaints (Administrative Court, Ombudsman’s Office), as well as submission of complaints to the Student Council.

19. The State Police regularly organises and supports different preventive measures, develops informative materials with the purpose of reducing drug and alcohol use and smoking, as well as pays attention to the issues of interrelations of children, road traffic safety, preparing children for dutiful life and teaching respect towards human rights and fundamental freedoms. For example, in 2010, 2996 preventive measures took place in different educational institutions of Latvia within the scope of the campaign “Drošības dienas skolās” [Safety Days at Schools]. In turn, in 2011, 3451 events took place within the scope of the campaign.

20. Persons whose minimum age is a full 18 years are enrolled in the State Border Guard College.

21. The State Border Guard College implements the first level vocational higher education study programme “Boarder Guard” (code 4186105) and the vocational further education programme “Border Guard” (code 30T 86105) (hereinafter – programmes); the



proportions between academic and military education, the duration of studies, the teaching staff involved are indicated in the table below.

<i>Programme</i>	<i>Education to be acquired</i>	<i>Duration</i>	<i>Proportions between education</i>		<i>Teaching staff</i>	
			<i>Academic</i>	<i>Military</i>	<i>Academic teaching staff</i>	<i>Military teaching staff</i>
Study programme of first level vocational higher education "Border guard" (code 4186105)	First level vocational higher education (fourth level of vocational qualification)	80 credit points, full-time studies – 2 years, part-time studies – 2.5 years	72 credit points	7 credit points	16	6
Vocational further education programme "Border Guard" (code 30T86105)	Vocational secondary education (third level of vocational qualification)	1184 hours	1030 contact hours	154 contact hours	17	6

22. The following study premises are used for the implementation of the following programmes: an administrative study building with 19 study rooms, a sports complex with a swimming pool, a shooting range, a sports hall, a wrestling hall, a fitness hall, a stadium with a football field and track-and-field sectors, a training border control point, a rural training centre "Janapole". During their enrolment in the programmes, cadets of the State Border Guard College are ensured with a place at the official accommodation facility.

23. Programmes include the principles of human rights and humanism according to the strategic/general objectives of the programmes.

24. Strategic objectives of the first level higher vocational education studies:

- To prepare the student for work in the profession of a border guard, to qualify as a junior officer of the State Border Guard, promoting the improvement of him or her as a mentally and physically developed, free, responsible and creative personality with the ability to take decisions;
- To promote the acquisition of professional knowledge and skills, which ensure the acquisition of the fourth level of vocational qualification and qualitative work of a border guard in organisation and management of border checks and control on the State border;
- To create motivation for further education and provide an opportunity to prepare for acquisition of the second level vocational higher education and the fifth level vocational qualification.

25. General objectives of the vocational further education programme are as follows:

- To prepare a student for work in the profession of a border guard, promoting the improvement of him or her as a mentally and physically developed, free, responsible and creative personality;
- To promote the acquisition of professional knowledge and skills, forming of attitudes, which ensures the student with acquisition of qualification of an inspector of the State Border Guard and promotes qualitative work by him or her in the performance of border control in the ever changing border guard work environment;

- To facilitate the forming of a positive attitude of the student towards his or her peers and to the State, to promote his or her self-confidence and the ability to assume the duties of a Latvian citizen;
- To generate motivation for professional development and further education of a border guard and to ensure the possibility for a student to prepare for continuing his or her education at the higher vocational education level.

26. The disciplinary measures for cadets of the State Border Guard College are implemented at the State Border Guard College in conformity with the requirements of the Law On Disciplinary Liability of Officials with Special Service Ranks of Institutions of the System of the Ministry of the Interior and the Prisons Administration, Regulation No. 26 of the Ministry of the Interior of 25 March 2009, Provisions for Appearance of Officials with Special Service Ranks of the Ministry of the Interior and the Institutions Subordinate Thereto and Interrelations between Services, Regulation No. 9 of the State Border Guard College of 23 July 2009, Provisions for Organisation of Work Procedures and Carrying out of Service Duties, Regulation No. 9 of the State Border Guard College of 29 May 2008, Ethics Code of an Official with a Special Service Rank and Employee of the State Border Guard College.

27. In accordance with Section 3, paragraph 3 of the National Armed Forces Law, cadets of the State Border Guard College are included in the composition of the National Armed Forces during a war or a state of emergency. The State Border Guard does not have information regarding the military career of students, because cadets of the State Border Guard College are not military persons. Contracts are entered into with cadets of the State Border Guard College regarding studies/training at the State Border Guard College and subsequent service in the State Border Guard, and cadets are entitled to terminate the contracts in conformity with Section 47, paragraph 1, clause 1 of the Law on the Career Course of Service upon their own wish. Students of the State Border Guard College are also entitled, during the acquisition of the study programme (in the cases specified in Section III of the By-law of Matriculation, Discontinuation of Studies and Exmatriculation in the College (approved by the College Council Decision No. 16 of 30 November 2007), to discontinue studies notifying the College and the border guard thereof in writing one calendar month in advance.

28. The State Border Guard College implements State administrative functions in relation to cadets of the State Border Guard College, issuing administrative acts, which may be contested by them in accordance with the procedures specified in the Administrative Procedure Law. In conformity with the requirements of paragraph 8 of Regulation No. 26 of the Ministry of the Interior of 25 March 2009, Provisions for Appearance of Officials with Special Service Ranks of the Ministry of the Interior and the Institutions Subordinate Thereto and Interrelations between Services, if an official with a special service rank has received an obviously unlawful order from the chief, he or she shall notify in writing the chief who issued the order regarding the unlawfulness of the relevant order. In conformity with the requirements of sub-paragraph 6.4 of Regulation No. 9 of the State Border Guard College of 29 May 2008, Ethics Code of an Official with a Special Service Rank and Employee of the State Border Guard College, cadets of the State Border Guard College have the right to refuse carrying out the tasks assigned by chiefs, if they are in contradiction with regulatory enactments, including with the Ethics Code, and inform the chief who assigned the task regarding reasons for refusal.

29. Military educational institutions shall enrol Latvian citizens who have reached the age of 18 years and have acquired at least a secondary education.

30. Children and young persons from 10 to 21 years of age may participate in a voluntary movement "Youth Guard", the purpose of which is to educate the youth in the field of national defence and to promote their civic awareness and patriotism. Education of

the youth in the field of national defence as an interest – related education programme is organised and implemented by the Recruitment and Youth Guard Centre – a direct administrative institution subordinate to the Minister for Defence – or authorised persons thereof. Interest – related education model programme of youth guards is approved by the Minister for Defence.

### Content of the model programme<sup>3</sup>

<i>No</i>	<i>Subjects</i>	<i>Number of lessons</i>
	<b>Civic Upbringing</b>	<b>68</b>
1.1	History of Latvia	10
1.2	History of the National Army and National Armed Forces of Latvia	4
1.3	History of Youth Guard	3
1.4	Study of Local History	8
1.5	NATO and EU	8
1.6	History of Latvia, District and Rural Territory (or <i>pagasts</i> )	7
1.7	Environmental Education	16
1.8	Safety Regulations	12
	<b>Military Training</b>	<b>234</b>
2.1	Structure of the National Armed Forces	4
2.2	Laws and Rules of Procedure	12
2.3	Drill	25
2.4	Activities Involving Weapons	81
2.5	Individual Field Battle Skills	82
2.6	Means of Communication	22
2.7	Defence against Weapons of Mass Destruction	8
	<b>Life Lesson</b>	<b>258</b>
3.1	Topography	80
3.2	Tourism	87
3.3	Physical Fitness	66
3.4	First Aid	25
	<b>In total</b>	<b>560</b>

31. In conformity with the standard for fulfilment of the study programme<sup>4</sup> the following issues are included in relation to the topic “Activities Involving Weapons” within the scope of the study block No. 2 “Military Training”: safety requirements when handling

<sup>3</sup> [http://www.rjc.gov.lv/lv/Jaunsardze/JS\\_Macibu\\_prog/Apraksts.aspx](http://www.rjc.gov.lv/lv/Jaunsardze/JS_Macibu_prog/Apraksts.aspx).

<sup>4</sup> [http://www.rjc.gov.lv/Jaunsardze/JS\\_Macibu\\_prog/Izpilde.aspx](http://www.rjc.gov.lv/Jaunsardze/JS_Macibu_prog/Izpilde.aspx).

a weapon; structure of weapons, technical indicators and basic principles of shooting; partial dismantling and assembling of an assault rifle; servicing of weapons; loading and unloading of an assault rifle; assuming a shooting position; practical shooting; division, main parts, possibilities of use of hand grenades; throwing of a training hand grenade; and recognition of battle support weapons.

32. A young person who wishes to join the Youth Guard shall submit a submission of specific sample to the youth guard instructor of the relevant school and become a candidate for youth guards. Persons are enrolled in the Youth Guard only with a written consent of parents or guardians. A probationary period – three months – is specified for a candidate for youth guard.

33. The training programme shall provide young persons with the skills and abilities necessary in life, promote interest regarding the National Armed Forces, make popular different military specialisations. The training programme is created in such a way as to enable every young person to improve himself or herself during the training process by acquiring new knowledge, which supplements the knowledge acquired in school study programmes.

### **III. Prohibition and related issues**

34. Conditions for enrolling of persons in military service are regulated in the Military Service Law, inter alia, prohibiting enrolling of children in professional service, i.e., persons who have not reached 18 years of age. Such prohibition has also been specified in relation to service in institutions of the system of the Ministry of the Interior and the Prisons Administration (Section 7, paragraph 1 of the Law on the Career Course of Service of Officials with Special Service Ranks Working in Institutions of the System of the Ministry of the Interior and the Prisons Administration). Criminal liability for the violation of such prohibition has not been provided, because the State and institutions thereof cannot be the subject of criminal liability, i.e., the State itself cannot apply a punishment or other compulsory means for violations of legal norms. It is specified in Section 2, Clause 1 of the Military Service Law that military service is a type of State service in the field of national defence that is performed by a soldier and that includes active service and service in the National Armed Forces' reserve. Similarly in accordance with Section 2, paragraph 1 of the Law On the Career Course of Service of Officials with Special Service Ranks Working in Institutions of the System of the Ministry of the Interior and the Prisons Administration service at the institutions of the system of the Ministry of the Interior and the Prisons Administration shall be a type of civil service. Therefore, the implementer of the condition in relation to the age of persons serving is the State itself. Thus, enrolment of a person into service is not the right of any individual natural person, but a prerogative of the relevant State institution; therefore, minor persons are not enrolled in such services.

35. Taking into account that mandatory military service has been liquidated in Latvia, Section 282 of the Criminal Law (hereinafter – CL) was excluded by the Law On Amendments to the Criminal Law of 14 December 2006, which came into force on 1 January 2007, providing for criminal liability for evasion by a person subject to mandatory military service from conscription into service, if such evasion continues for more than ten days or such evasion has taken place by causing bodily injuries to oneself or simulating an illness, forging documents or other misleading actions. Currently only professional service is implemented in Latvia, which in accordance with Section 2, Clause 4 of the Military Service Law is military service is performed by a Latvian citizen on a voluntary basis in accordance with a professional service contract entered into by him or her and the Ministry of Defence. However, Section 282.3 of the CL was also excluded by the aforementioned Law of 14 December 2006, which provided for criminal liability for

evading the performing of alternative service. These activities were decriminalised, taking into account the essence of the professional service, i.e., that it is carried out on a voluntary basis within the scope of contractual legal relationship. Concurrently attention should be paid to the fact that when mandatory military service co-existed with professional service minor persons could not be enrolled therein; therefore, criminal liability for evading mandatory or alternative service could not set in for a minor person.

36. Section 74 of the CL regulates especially serious crimes – war crimes, providing for a punishment of life imprisonment or deprivation of liberty for a term of not less than three and not exceeding twenty years for committing a violation of provisions regarding conduct of war prohibited in international law binding upon the Republic of Latvia or of international humanitarian law, including murder, torture of a person protected by humanitarian law or inhuman treatment of such person, taking of hostages, illegal deportation, movement, limitation of liberty, unjustifiable destruction of cities and other entities, or other prohibited activity. Only persons who are participants in a military conflict; maybe incriminated under this Section; therefore, minor persons cannot be persons who have committed war crimes. The same also applies to criminal offences regulated in Chapter 25 of the CL, for example, desertion, evading performing the duties of active service, insubordination, etc., because they all are criminal offences in military service, which may only be committed by a person serving in military service. Minors who have reached the age of criminal liability, i.e. 14 years, may be held criminally liable under other sections of the CL, in which the relevant acts or failures to act, committed by them during warfare, for example, murder, pillaging, etc., have been criminalised. In turn, for persons of legal age who have involved minors in committing war crimes, in addition to criminal liability for committing a war crime, criminal liability according to Section 172 of the CL for involving of a minor in a criminal offence sets in. Such offence is a less serious crime, for which deprivation of liberty for a term not exceeding five years or custodial arrest, or a fine up to one hundred minimum wages is provided for. Moreover, in accordance with Section 17 of the CL criminal liability for committing a war crime shall set in for such person also if the person himself or herself has not directly committed it, but, in the commission thereof, has employed another person who, in accordance with the provisions of the CL, may not be held criminally liable, including a person who has not reached 14 years of age.

37. Section 154.1, paragraphs 2 and 3 of the CL provide for criminal liability for human trafficking, which has been committed in relation to minors or underage persons, i.e., persons who have not reached 14 years of age. In accordance with Section 154.2, paragraph 2 of the CL the recruitment, transportation, transfer, concealment, accommodation or reception of a minor for the purpose of exploitation shall be recognised as human trafficking, in turn, it is stipulated in paragraph 3 of this Section that exploitation is the involvement of a person in prostitution or in other kinds of sexual exploitation, the compulsion of a person to perform labour or to provide services, the holding of a person in slavery or other similar forms thereof (debt slavery, serfdom or compulsory transfer of a person into dependence upon another person), and the holding a person in servitude or also the illegal removal of a person's tissues or organs. Therefore, also recruitment, transportation, transfer, concealment or reception of minors for the purpose of using the minor person as a participant of a military conflict shall be deemed human trafficking. The applicable punishment for committing human trafficking if it has been committed against a minor is deprivation of liberty for a term of not less than five years and not exceeding twelve years, with confiscation of property, in turn, if the victim is a minor, the person shall be punished with deprivation of liberty for a term of not less than ten years and not exceeding fifteen years, with confiscation of property and with or without probationary supervision for a term not exceeding three years.

38. In accordance with Section 15, paragraph 5 of the CL, liability for an attempted crime shall apply in accordance with the same Section of this Law as sets out liability for a specific offence. Criminal liability sets in for an attempt of committing a criminal offence, if such offence is to be classified as a crime, i.e., deprivation of liberty for a time period exceeding two years is provided for it in the CL. Both human trafficking and involving of a minor in a criminal offence are to be classified as crimes; therefore, criminal liability sets in for an attempt of committing either of them. Moreover, if the crime is serious or especially serious as in case of human trafficking, i.e., deprivation of liberty for a time period exceeding five years is provided for in the CL, criminal liability may set in already for the preparation for such crime. It is stipulated in Section 15, paragraph 3 of the CL that the locating of, or adaptation of, means or instrumentalities, or the intentional creation of circumstances conducive for the commission of an intentional offence, shall be considered to be preparation for a crime if, in addition, it has not been continued for reasons independent of the will of the guilty party. Similarly a person shall be held liable for participation in any of the criminal offences regulated by the CL in accordance with the same section of the CL, which provides for the liability of the perpetrator (Section 20, paragraph 5 of the CL). Thus, taking into account that such approach towards unfinished crimes and participation in criminal offences had been already provided for since the coming into force of the CL on 1 April 1999, amendments in order to ensure the conformity of regulation with the requirements of this Optional Protocol were not made.

39. In relation to the liability of legal persons, we indicate that since 1 October 2005 the CL has been supplemented with Chapter VIII.1 “Coercive Measures Applicable to Legal Persons”. In accordance with Section 70.1, paragraph 1 of the CL for the criminal offences provided for in the Special Part of the CL, a legal person may be subject to any coercive measure, if a natural person has committed a criminal offence in the interests of the legal person. Such procedures have been specified on the basis of an idea that a legal person is not a person existing in the physical world and therefore is not physically able to commit a criminal offence. However, a criminal offence may be committed in the interests thereof, therefore, although criminal liability for the particular criminal offence sets in for the natural person who has actually committed it, a possibility of determining one of the following basic coercive measures to the legal person has been provided for in situations when it is detected that the criminal offence has been committed in the interests of the legal person:

- (a) Liquidation;
- (b) Restriction of rights;
- (c) Confiscation of property;
- (d) Monetary levy;

As well as the following additional coercive measures:

- (a) Confiscation of property;
- (b) Compensation for damage.

40. The grounds of jurisdiction are regulated in Sections 2, 3 and 4 of the CL according to which Latvia has jurisdiction over a criminal offence if:

- (a) It has been committed in the territory of Latvia;
- (b) It has been committed outside the territory of Latvia, on an aircraft, or a sea or river vessel or other floating means of conveyance, which is registered in the Republic of Latvia, unless it is not provided otherwise in international agreements binding upon the Republic of Latvia;

(c) It has been committed in the territory of Latvia or outside the territory of any State by Latvian citizens, non-citizens or foreigners who have a permanent residence permit for the Republic of Latvia, regardless of whether it has been recognised as criminal and punishable in the territory of commitments;

(d) It has been committed by soldiers of the Republic of Latvia who are located outside the territory of Latvia, unless it is provided otherwise in international agreements binding upon the Republic of Latvia;

(e) Foreigners who do not have permanent residence permits for the Republic of Latvia, have committed a serious or especially serious crime in the territory of another State, which has been directed against the Republic of Latvia or against the interests of its inhabitants, irrespective of the laws of the State in which the crime has been committed, if they have not been held criminally liable or committed to stand trial in accordance with the laws of the state where the crime was committed;

(f) International agreements binding upon the Republic of Latvia provide for jurisdiction over a criminal offence committed in the territory of another State, which has been committed by foreigners who do not have a permanent residence permit for the Republic of Latvia, unless they have not been held criminally liable or committed to stand trial for such offence.

41. In accordance with Section 696, paragraphs 1 and 2 of the Criminal Procedure Law (hereinafter – CPL) a person who is located in the territory of Latvia may be extradited for criminal prosecution, or trial, if a request has been received from a foreign State to extradite such person regarding an offence that, in accordance with the law of Latvia and the foreign State, is criminal and for the committing of which a punishment of deprivation of liberty is provided for in the CL, the maximum limit of which is not less than one year, or a more serious punishment, if the international agreement does not provide otherwise.

42. Taking into account the above-mentioned, a person who has committed any of the above-mentioned criminal offences, may be extradited for criminal prosecution and trial. The regulations setting out the reasons according to which extradition of a person is not admissible, are contained in Section 697, paragraph 2 of the CPL, and they are as follows:

(a) The person is a Latvian citizen;

(b) The request for the extradition of the person is related to the aim of commencing criminal prosecution of such person or punishing such a person due to his or her race, religion affiliation, nationality, or political views, or if there are sufficient grounds for believing that the rights of the person may be violated due to these referred to reasons;

(c) A court adjudication has entered into effect in Latvia in relation to the person regarding the same criminal offence;

(d) The person may not, in accordance with a Latvian law regarding the same criminal offence, be held criminally liable, tried, or execute a punishment in connection with a limitation period, amnesty, or another legal basis;

(e) The person has been granted clemency, in accordance with the procedures specified by law, regarding the same criminal offence;

(f) The foreign State does not provide a sufficient guarantee that such State will not impose the death penalty on such person and execute such penalty;

(g) The person may be threatened with torture in the foreign State.

43. In accordance with Section 697, paragraph 1 of the CPL extradition may be refused also if:

- (a) A criminal offence has been committed completely or partially in the territory of Latvia;
- (b) The person is being held as a suspect, is accused, or is being tried in Latvia regarding the same criminal offence;
- (c) A decision has been taken in Latvia not to commence, nor to terminate, criminal proceedings regarding the same criminal offence;
- (d) Extradition has been requested in connection with political or military criminal offences;
- (e) A foreign State requests the extradition of a person for the execution of a punishment imposed in a judgment by default, and a sufficient guarantee has not been received that the extradited person will have the right to request the repeated adjudication of the case;
- (f) Extradition has been requested by a foreign State with which Latvia does not have an agreement regarding extradition.

44. Officials of the State Police participate in missions of the European Union with the purpose of maintaining peace and ensure public order.

45. According to the information at the disposal of the Ministry of the Interior, recruitment of Latvian children with the purpose of involving them in military conflicts has not occurred.

#### **IV. Protection of the rights of victims**

46. CPL, since the coming into force thereof on 1 October 2005, provides for special conditions and procedures for the performance of procedural actions in order to ensure the protection of the rights and interests of children. The CPL provides for involving of a representative in criminal proceedings, i.e., all rights of the victim completely belong to his or her representative and the victim may not exercise them independently, except the right of a minor to give testimony and express his or her opinion. However, in accordance with Section 107, paragraph 2 of the CPL the representative of a minor victim who has reached the age of fifteen years may implement his or her rights together with the person to be represented.

47. In accordance with Section 104, paragraph 2 of the CPL a minor victim in criminal proceedings shall be represented by:

- (a) A mother, father, or guardian;
- (b) One of the grandparents, a brother or sister of legal age, if the minor has lived together with one of such persons and the relevant kinsperson takes care of the minor;
- (c) A representative of an authority protecting the rights of children;
- (d) A representative of such non-governmental organisation that performs the function of protecting the rights of children.

48. Moreover, if the protection of the rights and interests of a minor are encumbered or otherwise not ensured, or the representatives submit a substantiated request, a person directing the proceedings shall take a decision on retaining of an advocate as the representative of a minor victim.

49. It is specified in Section 104, paragraph 9 of the CPL that, in deciding a matter regarding permission for a person to participate in criminal proceedings as a representative of a minor victim, the person directing the proceedings shall observe the sequence specified



in the Law (see above), and also the possibilities and desire of the concrete persons to truly protect the interests of the victim. Therefore, upon detecting that a conflict of interests between the child and his or her parents or guardian is possible, the person directing the proceedings shall determine any other of the previously invited persons as the representative.

50. Section 22 of the CPL stipulates a general principle in relation to the right of the victim to a compensation for the damage caused, regulating that any person upon whom harm has been inflicted by a criminal offence shall, taking into account the moral injury, physical suffering, and financial loss thereof, be guaranteed procedural opportunities for requesting and receipt of moral and financial compensation. The failure to ascertain a person being held criminally liable shall not be an impediment to the submission of a compensation application (Section 351, paragraph 4 of the CPL). Similarly also the nationality of the victim of any other state is not an obstacle – the relevant criminal proceedings are taking place in Latvia, therefore, it is in jurisdiction of Latvia, thus the nationality of the victim is not of significance. Any victim is guaranteed equal rights to compensation. The Law On State Compensation to Victims guarantees the right of any person (regardless of nationality), who according to the procedures specified in the CPL has been recognised as a victim, to receive State compensation for moral injury, physical suffering or financial loss caused as a result of intentional criminal offence, if the person has died as a result of a criminal offence or the victim has been caused serious or moderate bodily injuries, sexual inviolability of the person has been violated or the victim has been infected with human immunodeficiency virus, hepatitis B or C.

51. Section 146, paragraph 3 of the CPL, as well as Sections 152 and 153 of the CPL regulates the special features of interrogation of a minor, providing for special procedures for summoning a minor to interrogation, shortened time period for interrogation, interrogation of minors, as well as, in the opinion of the person performing investigatory actions, any underage persons in the presence of a teacher or such specialist, who has been trained for work of a psychologist with children in criminal proceedings, or interrogation of a minor with the intermediation of such specialist, if direct interrogation may cause harm to the minor. Also it provides for the right of participation of lawful representatives of the minor, a kinsperson of legal age, or a trustee in the interrogation. Section 152, paragraph 4 of the CPL stipulates that if a psychologist indicates to a person directing the proceedings that the psyche of an underage person or the psyche of such minor who has been recognised as a victim of violence committed by a person upon whom the victim is materially dependent or otherwise dependent, or of sexual abuse, may be harmed by repeated direct interrogation, such direct interrogation shall be performed only with the permission of the investigating judge, but in a court – with a court decision. Similarly, in accordance with Section 244, paragraph 3 of the CPL a procedural security measure, i.e., detention, placement in a medical treatment institution for carrying out an expert-examination or compulsory conveyance – may not be applied to a minor victim who has suffered from violation committed by a person upon whom the victim is materially or otherwise dependent, or sexual abuse, as well as to a victim who is underage. In turn, Section 311 of the CPL provides for a prohibition of using the testimonies of the person to be protected as evidence in a criminal case, if the measures to be performed may not guarantee the safety of a protected person.

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**Table indicating the conformity of national regulatory enactments with the Optional Protocol**


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*Optional Protocol**National Regulatory Enactments***Article 1**

States Parties shall take all feasible measures to ensure that members of their armed forces who have not attained the age of 18 years do not take a direct part in hostilities.

Involvement in the National Armed Forces is voluntary and takes place in accordance with Section 19, paragraph 1 of the Military Service Law (hereinafter – MSL), which prescribes that Latvian citizens from 18 years of age shall be accepted into professional service.

The referred to legal norm provides for a co-operation/support mechanism between different institutions, specifying that the Training Management Command of the National Armed Forces (hereinafter – NAF), when performing recruiting and selection of candidates for professional service, is entitled to request and receive the necessary information from the Population Register, State administrative institutions, local governments, health-care institutions and other legal persons free of charge in order to determine the conformity of the candidates with the professional service.

Section 63 of the MSL regulates inclusion of Latvian citizens in the NAF's reserve, specifying that Latvian citizens – men who have attained 18 years of age and are valid for military service, as well as Latvian citizens – women who have attained 18 years of age and are valid for military service, and have expressed such wish or have acquired a special military training course or have completed training in the National Guard, shall be included in the reserve.

In addition to professional service Latvian citizens have a possibility of involving in the defence of Latvia in other ways, i.e., to join the National Guard, the activities of which is regulated by the National Guard of the Republic of Latvia Law, Section 14, paragraph 1 of which stipulates that citizens of Latvia in the age from 18 to 55 who conform to the requirements set out in the law, including health and physical fitness, shall be admitted to the National Guard on a voluntary basis.

**Article 2**

States Parties shall ensure that persons who have not attained the age of 18 years are not compulsorily recruited into their armed forces.

Involvement in the National Armed Forces is voluntary and takes place in accordance with Section 19, paragraph 1 of the MSL, which prescribes that Latvian citizens from 18 years of age shall be accepted into professional service.

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*Optional Protocol**National Regulatory Enactments*

## Article 3

1. States Parties shall raise the minimum age for the voluntary recruitment of persons into their national armed forces from that set out in article 38, paragraph 3, of the Convention on the Rights of the Child,<sup>5</sup> taking account of the principles contained in that article and recognising that under the Convention persons under the age of 18 years are entitled to special protection.

2. Each State Party shall deposit a binding declaration upon ratification of or accession to, the present Protocol that sets forth the minimum age at which it will permit voluntary recruitment into its national armed forces and a description of the safeguards it has adopted to ensure that such recruitment is not forced or coerced

3. States Parties that permit voluntary recruitment into their national armed forces under the age of 18 years shall maintain safeguards to ensure, as a minimum, that:

- (a) Such recruitment is genuinely voluntary;
- (b) Such recruitment is carried out with the informed consent of the person's parents or legal guardians;
- (c) Such persons are fully informed of the duties involved in such military service;
- (d) Such persons provide reliable proof of age prior to acceptance into national military service.

Involvement in the National Armed Forces is voluntary and takes place in accordance with Section 19, paragraph 1 of the MSL, which prescribes that Latvian citizens from 18 years of age shall be accepted into professional service.

## Declaration of Latvia:

“1) in accordance with Section 17, paragraph 1 of the Mandatory Military Service Law, which was adopted by the Saeima on 19 February 1997, citizens who are in the age from 19 to 27 have a duty to serve in the mandatory military service;

2) in accordance with Section 17, paragraph 2 of the Mandatory Military Service Law men and women who are in the age from 18 to 27 may be enrolled in mandatory active military service on a voluntary basis.”

The Mandatory Military Service Law has been repealed in accordance with the Law On Repealing of the Mandatory Military Service Law, which came into force on 1 January 2007.

Involvement in the National Armed Forces is voluntary and takes place in accordance with Section 19, paragraph 1 of the MSL, which prescribes that Latvian citizens from 18 years of age shall be accepted into professional service.

Involvement in the National Armed Forces is voluntary and takes place in accordance with Section 19, paragraph 1 of the MSL, which prescribes that Latvian citizens from 18 years of age shall be accepted into professional service.

<sup>5</sup> Article 38(3) of the Convention on the Rights of the Child: States Parties shall refrain from recruiting any person who has not attained the age of fifteen years into their armed forces. In recruiting among those persons who have attained the age of fifteen years but who have not attained the age of eighteen years, States Parties shall endeavour to give priority to those who are oldest.

*Optional Protocol*

*National Regulatory Enactments*

4. Each State Party may strengthen its declaration at any time by notification to that effect addressed to the Secretary-General of the United Nations, who shall inform all States Parties. Such notification shall take effect on the date on which it is received by the Secretary-General.

Such notification has not been submitted.

5. The requirement to raise the age in paragraph 1 of the present article does not apply to schools operated by or under the control of the armed forces of the States Parties, in keeping with articles 28 and 29 of the Convention on the Rights of the Child.<sup>6</sup>

In accordance with the MSL children and young persons are provided an opportunity of acquiring knowledge in the field of defence, i.e., Section 17.1, paragraph 1 of the MSL stipulates that children and youth from 10 up to 21 years of age may operate in a voluntarily movement Youth Guard, the purpose of which is educating of youth in the field of national defence and promotion of civic consciousness and patriotism. Educating of youth in the field of national defence shall be organised and implemented by the

<sup>6</sup> Article 28

1. States Parties recognize the right of the child to education, and with a view to achieving this right progressively and on the basis of equal opportunity, they shall, in particular:

- (a) Make primary education compulsory and available free to all;
- (b) Encourage the development of different forms of secondary education, including general and vocational education, make them available and accessible to every child, and take appropriate measures such as the introduction of free education and offering financial assistance in case of need;
- (c) Make higher education accessible to all on the basis of capacity by every appropriate means;
- (d) Make educational and vocational information and guidance available and accessible to all children;
- (e) Take measures to encourage regular attendance at schools and the reduction of drop-out rates.

2. States Parties shall take all appropriate measures to ensure that school discipline is administered in a manner consistent with the child's human dignity and in conformity with the present Convention.

3. States Parties shall promote and encourage international cooperation in matters relating to education, in particular with a view to contributing to the elimination of ignorance and illiteracy throughout the world and facilitating access to scientific and technical knowledge and modern teaching methods. In this regard, particular account shall be taken of the needs of developing countries.

Article 29

1. States Parties agree that the education of the child shall be directed to:

- (a) The development of the child's personality, talents and mental and physical abilities to their fullest potential;
- (b) The development of respect for human rights and fundamental freedoms, and for the principles enshrined in the Charter of the United Nations;
- (c) The development of respect for the child's parents, his or her own cultural identity, language and values, for the national values of the country in which the child is living, the country from which he or she may originate, and for civilizations different from his or her own;
- (d) The preparation of the child for responsible life in a free society, in the spirit of understanding, peace, tolerance, equality of sexes, and friendship among all peoples, ethnic, national and religious groups and persons of indigenous origin;
- (e) The development of respect for the natural environment.

2. No part of the present article or article 28 shall be construed so as to interfere with the liberty of individuals and bodies to establish and direct educational institutions, subject always to the observance of the principle set forth in paragraph 1 of the present article and to the requirements that the education given in such institutions shall conform to such minimum standards as may be laid down by the State.

*Optional Protocol**National Regulatory Enactments*

Recruitment and Youth Guard Centre – the institution under subordination of the Minister for Defence – or the authorised persons thereof as an interest education programme for youth guards. A model interest education programme for youth guards shall be approved by the Minister for Defence. Concurrently in co-operation with the Ministry of Education and Science, general secondary education institutions have an opportunity of including the subject of national defence as an optional subject for grades 10-12 in their study programmes, which is implemented in co-operation with the Recruitment and Youth Guard Centre. The National Centre for Education has provided an opinion that the standard of this subject has been prepared in accordance with the requirements of the MoES. The components of the study content: knowledge and understanding of national defence; activities; development of physical abilities in military service; physical activities in social and surrounding environment. Within the scope of the component “Activities” the topic “Activities Involving Weapons” has been included, within the scope of which students learn how to dismantle, assemble and service weapons, practical shooting and throwing a grenade.

## Article 4

1. Armed groups that are distinct from the armed forces of a State should not, under any circumstances, recruit or use in hostilities persons under the age of 18 years.
2. States Parties shall take all feasible measures to prevent such recruitment and use, including the adoption of legal measures necessary to prohibit and criminalize such practices.
3. The application of the present article shall not affect the legal status of any party to an armed conflict.

Section 2, Clause 1 of the Military Service Law stipulates that military service is a type of State service in the field of national defence that is performed by a soldier and that includes active service and service in the National Armed Forces’ reserve.

Similarly, in accordance with Section 2, paragraph 1 of the Law On the Career Course of Service of Officials with Special Service Ranks Working in Institutions of the System of the Ministry of the Interior and the Prisons Administration service in institutions of the system of the Ministry of the Interior or the Prisons Administration is a type of State service.

Enrolment of a person into service is not the right of any individual natural person, but a prerogative of the relevant State institution; therefore, minor persons are not enrolled in such services.

Criminal liability for the violation of such prohibition has not been provided, because the State and institutions thereof cannot be the subject of criminal liability, i.e., the State itself cannot apply a punishment or other compulsory means for violations of legal norms.