



Convention on the Rights of the Child

Distr.

GENERAL

CRC/C/OPAC/IRL/CO/1

14 February 2008

Original: ENGLISH

COMMITTEE ON THE RIGHTS OF THE CHILD**Forty-seventh session****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: Ireland**

The Committee considered the initial report of Ireland (CRC/C/OPAC/IRL/1) at its 1299th meeting, held on 23 January 2008, without the presence of a delegation of the State party, which, in accordance with the Committee's Decision No. 8 adopted during the thirty-ninth session, opted for a technical review of the report. The Committee adopted at its 1313th meeting, held on 1 February 2008, the following concluding observations.

A. Introduction

The Committee welcomes the submission of the State party's initial report under the Optional Protocol, as well as the submission of the written replies to its list of issues (CRC/C/OPAC/IRL/Q/1/Add.1), which provide additional information on the legislative, administrative and other measures applicable in Ireland in respect of the rights guaranteed by the Optional Protocol.

The Committee reminds the State party that these concluding observations should be read in conjunction with its previous concluding observations adopted on the State party's second periodic report on 29 September 2006 (CRC/C/IRL/CO/2).

B. Positive aspects

The Committee welcomes the ratification or accession by the State party of:

The Rome Statute of the International Criminal Court in April 2002 and the enactment of the International Criminal Court Act, in October 2006;

International Labour Organization Convention No. 182 concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour, in 1999; and

The Protocol Additional to the Geneva Conventions of 12 August 1949, and Relating to the Protection of Victims of Non-International Armed Conflicts (Protocol II), in 1999.

Furthermore, the Committee notes with appreciation the State party's activities in the area of international cooperation, including the provision of financial support for action to protect children affected by armed conflict.

I. General measures of implementation**Dissemination and training**

The Committee is encouraged by the State party's efforts to provide human rights training on peace operations for military personnel and that the Optional Protocol is covered in a module dealing with the protection of children and child soldiers. The Committee also notes that the text of the Optional Protocol is available on the website of the Department of Foreign Affairs, but regrets that the State party's dissemination and training activities regarding the Optional Protocol at the national level are generally limited to the armed forces and military training and that insufficient measures have been taken to disseminate the Optional Protocol to the public at large.

The Committee recommends that the State party continue providing its armed forces, as well as personnel to be deployed to international operations, with training on the provisions of the Optional Protocol. It also recommends that the State party develop systematic awareness-raising, education and training programmes on the provisions of the Optional Protocol for all relevant professional groups working with and for children, such as health personnel, social

workers, teachers, public officials, public prosecutors, judges and authorities working for and with asylum-seeking and refugee children coming from countries affected by armed conflict. Furthermore, it recommends that the State party make the Optional Protocol widely known to the public at large and in particular to children and their parents through, inter alia, school curricula and human rights education.

Independent national human rights institution

While welcoming the competence of the Office of the Ombudsman for Children to investigate complaints by children or on their behalf, the Committee regrets that, pursuant to Section 11(1)(b) of the Ombudsman for Children Act, 2002, the Office is precluded from investigating any action which “relates to or affects national security or military activity”. Moreover, while the Committee welcomes the establishment of the Ombudsman for the Defence Forces in 2004 under the Ombudsman (Defence Forces) Act, it regrets that the Ombudsman is precluded from investigating: any matter concerning the organization, structure and deployment of the Defence Forces; an action that concerns the administration of military prisons or places of detention; and action which relates to or affects security or a military information.

The Committee recommends that the State party consider amending Section 11(1)(b) of the Ombudsman for Children Act, 2002, so as to bring actions taken by the Defence Forces vis-à-vis children under the age of 18 under the purview of the Office of the Ombudsman for Children.

II. Prevention

Voluntary recruitment

While noting the provision in the Defence Forces Regulations and Administrative Instructions to preclude all military personnel under 18 years of age from services abroad, the Committee is concerned that an exception in the current regulation allows for the legal recruitment of “apprentices” who may be recruited from the age of 16 onwards, and that article 54 of the 1954 Defence Act allows persons under the age of 18 to be enlisted into the Permanent Defence Force during periods of emergency. The Committee is also concerned that, by virtue of their status as military personnel, children in the armed forces under the age of 18 can be subjected to military law (1954 Defence Act), and are excluded from the protection afforded to under 18-year-olds under the 2001 Children Act.

The Committee notes that the great majority of States parties to the Optional Protocol do not permit voluntary recruitment of children. The Committee therefore encourages the State party to raise the minimum age for recruitment into the Irish Defence Forces from 17 years to 18 years, without any forms of exception, in order to promote the protection of children through an overall higher legal standard.

The Committee also notes the State party’s assurance that under the terms of the policy of the Irish Defence Force, the possibility of a person who has not attained the age of 18 years being exposed to any “hostile” incident is virtually negligible. However, the Committee is concerned that members of the Defence Forces under the age of 18 undertake weapons training. The Committee is of the view that this type of activities with “a military element” for children are not in full conformity with the spirit of the Optional Protocol which emphasizes that conditions of peace and security are indispensable for the full protection of children.

The Committee encourages the State party to consider raising the minimum age of cadets participating in arms training provided by the Defence Forces to 18 years in order to fully respect the spirit of the Optional Protocol and to provide full protection for children in all circumstances. It recommends that the State party provide all Defence Forces with adequate information and training on the provisions of the Optional Protocol as well as other relevant international standards.

III. Prohibition and related matters

Legislation

The Committee notes with concern the lack of explicit legal prohibition of direct involvement by persons between the age of 15 and 18 in hostilities in the domestic legislation of the State party. The Committee is of the view that the administrative policy of the Irish Defence Force, pursuant to the Defence Forces Regulations and Administrative Instructions, to preclude all military personnel under 18 years of age from services abroad is not a sufficient guarantee against engagement by persons under 18 years of age in armed conflict, as required by article 1 of the Optional Protocol.

The Committee encourages the State party to explicitly criminalize direct involvement of any persons under the age of 18 in hostilities, both at home and abroad, with a view to fully respect the spirit of the Optional Protocol and to provide full protection for children in all circumstances.

The Committee welcomes the enactment of the International Criminal Court (ICC) Act in 2006 and that section 12(1) of the Act provides for the exercise of extraterritorial jurisdiction over recruitment of children under the age of 15 years into armed forces or groups. The Committee regrets, however, that for such jurisdiction to be established for children between 15 and 17 years of age, it is subject to the requirement of double criminality.

In order to further strengthen international measures for the prevention of the recruitment of children into armed forces or armed groups and their use in hostilities, the Committee recommends that the State party:

Consider extending extraterritorial jurisdiction for crimes of recruitment and involvement of children in hostilities without the criterion of double criminality; and

Ensure that all military codes, manuals and other military directives are in accordance with the provisions and the spirit of the Optional Protocol.

IV. Protection, recovery and reintegration

Measures adopted to protect the rights of child victims

The Committee welcomes that the 2000-2010 National Children's Strategy makes a reference to unaccompanied children seeking refugee status, and that they will be treated in accordance with best international practice, including the provision of a designated social workers and guardian *ad litem*. However, the Committee is concerned about the absence of an identification mechanism for asylum-seeking and refugee children who may have been recruited or used in hostilities, or a specific strategy for their physical and psychological recovery and social reintegration. In this connection, the Committee reiterates its concern about the insufficient supervision of and care provided to unaccompanied asylum-seeking children (see, *CRC/C/IRL/CO/2*, paras. 64-65).

The Committee recommends that the State party:

Introduce a mechanism that allows for systematic identification at the earliest possible stage of refugee and asylum-seeking children entering Ireland who may have been recruited or used in hostilities abroad;

Carefully assess the situation of these children and provide them with immediate, culturally sensitive and multidisciplinary assistance for their physical and psychological recovery and their social reintegration in accordance with article 6(3) of the Optional Protocol;

Systematically collect data on refugee and asylum-seeking children within its jurisdiction who may have been recruited or used in hostilities in their home country; and

Include information on measures adopted in this regard in its next report.

In this respect, the Committee further wishes to draw the State party's attention to the Committee's general comment No. 6 on treatment of unaccompanied and separated children outside their country of origin (paras. 54-60).

V. International assistance and cooperation

International cooperation

The Committee commends the State party for its financial support to multilateral and bilateral activities aimed at protecting and supporting children who have been affected by armed conflict, including, but not limited to, extensive support to organizations working on land mine issues.

The Committee encourages the State party to continue its activities in the area of international cooperation, including the provision of financial support, for action to protect children in armed conflict. The Committee also recommends the State party to consider disaggregating financial data relating to the Irish Aid programme to allow for an assessment and monitoring of the aid expenditure on children, and in particular, on children affected by armed conflict.

Arms export and military assistance

The Committee welcomes the publication, in February 2007, of the Control of Exports Bill, aimed at bringing domestic legislation in line with the EU *acquis*. However, the Committee regrets that the Bill contains no specific mention, as a criterion for excluding their sale, of the possible recruitment or use in hostilities of children in the country of final destination of the arms.

The Committee recommends that the State party consider introducing a specific prohibition with respect to the 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. Other legal provisions

Given the potential connection between the sale of children and their recruitment into armed groups, the Committee recommends that the State party proceed to ratify the Optional Protocol on the sale of children, child prostitution and child pornography, which it signed on 7 September 2000.

VII. Follow-up and dissemination

The Committee recommends that the State party take all appropriate measures to ensure full implementation of the present recommendations, inter alia, by transmitting them to the members of the Parliament (*Oireachtas*), the lower house (*Dail*), the Senate (*Seanad*), the Defence Ministry and to provincial authorities, where applicable, for appropriate consideration and further action.

Additionally, in light of article 6, paragraph 2, of the Optional Protocol, the Committee recommends that the initial report submitted by the State party and concluding observations adopted by the Committee be made widely available to the public at large in order to generate debate and awareness of the Optional Protocol, its implementation and monitoring.

In accordance with article 8, paragraph 2, of the Optional Protocol, the Committee requests the State party to include further information on the implementation of the Optional Protocol in its consolidated third and fourth periodic report under the Convention on the Rights of the Child, in accordance with article 44 of the Convention, due on 27 April 2009.