



Convention on the Rights of the Child

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: Argentina

1. The Committee considered the initial report of Argentina (CRC/C/OPAC/ARG/1) at its 1526th meeting (see CRC/C/SR.1526), held on 3 June 2010, and adopted at its 1541st meeting, held on 11 June, the following concluding observations.

Introduction

2. The Committee welcomes the submission of the initial report of the State party as well as the replies provided in response to its list of issues (CRC/C/OPAC/ARG/Q/1/Add.1). The Committee also appreciates the frank and constructive dialogue held with the multisectoral delegation.

3. The Committee reminds the State party that the present concluding observations should be read in conjunction with its concluding observations adopted on the third and fourth periodic report of the State party (CRC/C/ARG/CO/3-4) and the concluding observations on the initial report of the State party under the Optional Protocol to the Convention on the sale of children, child prostitution and child pornography (CRC/C/OPSC/ARG/CO/1).

Positive aspects

4. The Committee welcomes the abolishment of compulsory military service by Act No. 1537 of 1994 and the regulation by Act No. 24429 of 1995 of the minimum age of 18 years of age for voluntary military service. It further welcomes the establishment of a minimum age of 18 years even for exceptional conscription, according to Act No. 17531.

5. The Committee also welcomes the ratification by the State party of the following:

- (a) Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography (in 2003);
- (b) Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (in 2004);
- (c) International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (in 2007).

I. General measures of implementation

Dissemination and awareness-raising

6. The Committee is concerned that the general awareness about the Optional Protocol is very low and that the State party has not taken any specific measures to disseminate the Optional Protocol to the public at large and to children in particular.

7. In light of article 6, paragraph 2, of the Optional Protocol, the Committee recommends that the State party ensure that the principles and provisions of the Optional Protocol are widely disseminated to the general public and among children.

Training

8. The Committee welcomes the information that students in secondary schools receive human rights education, including on the Optional Protocol. It however regrets the absence of information on training activities on the Optional Protocol, in particular for members of the armed forces and certain groups of professionals dealing with children.

9. The Committee encourages the State party to continue to provide training activities on the Optional Protocol for members of the armed forces and certain groups of professionals dealing with children, such as teachers, the media, authorities working for and with children, lawyers and judges, police and migration officials. 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.

II. Prevention

Military schools

10. The Committee notes the comprehensive reform of military schools and resolutions No. 228 and 516 of the Ministry of Defense, which affirm that modernization and democratization are the fundamental principles on which the curriculum and teachings are based. It has further noted the efforts to align the curricula of military schools to the Law on Education. While noting that the age of children's training on the use of arms has been raised to 17, the Committee is nevertheless concerned that children between 17 and 18 years of age continue to be instructed on the use of arms. It is further concerned that the Ministry of Education has only an advisory role with regard to military schools.

11. The Committee recommends that the State party continue its efforts to reform military schools, including by aligning their curricula to schools under the responsibility of the Ministry of Education and by ensuring that corporal punishment is explicitly forbidden in all settings, including military schools. The Committee further recommends that the State party continue its efforts regarding the prohibition of children's training on the use of arms, including for children who are between 17 and 18 years of age. The Committee furthermore encourages the State party in its efforts to bring military schools under the responsibility of the Ministry of Education.

Peace education

12. While recognizing the State party's efforts with regard to the memory of victims of the past, the Committee recommends that the State party strengthen its programmes and activities with a view to creating an environment of tolerance, peace and understanding, inter alia by introducing human rights education and, in particular, peace education, in the curricula of all schools.

III. Prohibition and related matters

Criminal legislation and jurisdiction

13. The Committee notes with concern that the establishment of and the recruitment for armed groups are not criminalized in the State party. It notes the statement of the delegation of the State party that armed groups are not present on its territory. The absence of armed forces or groups does not, however, exclude the possibility of individuals or groups undertaking efforts to recruit children for foreign armed forces or groups; consequently the Committee is concerned that the recruitment of children is not explicitly defined as a crime in the Penal Code. Furthermore, the Committee regrets the lack of information on war crimes provisions in national legislation aimed at criminalizing the conscription or enlistment of children under the age of 15 into national armed forces or using them to participate actively in hostilities, in accordance with the Rome Statute of the International Criminal Court, to which Argentina is party.

14. In order to strengthen international measures for the prevention of the recruitment of children and their use in hostilities, the Committee recommends that the State party:

(a) Ensure that violations of the provisions of the Optional Protocol regarding the recruitment and involvement of children in hostilities be explicitly criminalized in the legislation of the State party, taking into account the relevant instruments to which it is party, including the Rome Statute of the International Criminal Court;

(b) Ensure that military codes, manuals and other military directives are in accordance with the provisions of the Optional Protocol.

Jurisdiction and extradition

15. The Committee notes information that extradition from the State party is regulated by bilateral and multilateral agreements. Nevertheless, the Committee regrets the lack of an explicit reference in the legislation of the State party to the possibility of extradition of persons who committed offences addressed in the Optional Protocol.

16. The Committee recommends that the State party ensure that domestic legislation enables it to establish and exercise extraterritorial jurisdiction over war crimes of conscription and enlistment of children in hostilities. It furthermore recommends that the State party strengthen measures to establish extraterritorial jurisdiction over crimes under the Optional Protocol.

IV. Protection, recovery and reintegration

Assistance for physical and psychological recovery

17. The Committee is concerned that no specific measures have been taken to identify children entering Argentina who may have been recruited or used in hostilities abroad. The Committee is concerned at information that such children do not have access to interpreters/translators in their interactions with medical doctors and social workers. Furthermore, it is concerned at the absence of physical and psychological assistance for these children once they have left medical facilities.

18. The Committee recommends that the State party identify and assess the situation of children entering Argentina who

may have been recruited or used in hostilities abroad, 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, paragraph 3, of the Optional Protocol. The National Refugee Commission (CONARE), the Ministry of Social Development and the government of the City of Buenos Aires, where most refugee and asylum-seeker children are located, should adopt the necessary assistance programmes for unaccompanied or separated children. Furthermore, access to interpreters/translators should be facilitated for the children's interaction with medical doctors and social workers. Once these children are released from medical facilities, their physical and psychological assistance should be guaranteed.

V. International assistance and cooperation

Arms export

19. The Committee notes with concern that the legislation of the State party does not contain specific provisions prohibiting arms export from the State party to countries in a state of conflict, where children can be recruited or used in hostilities.

20. The Committee recommends that the State party introduce into its domestic legislation a specific prohibition with respect to the sale of arms to countries where children have been known to be, or may potentially be, recruited or used in hostilities.

International cooperation

21. The Committee further recommends that the State party, in accordance with article 7 of the Optional Protocol, continue its bilateral, multilateral and international cooperation in the implementation of the Optional Protocol, including in the prevention of any activity contrary thereto and in the rehabilitation and social reintegration of persons who are victims of acts contrary to its provisions, including through technical cooperation and financial assistance.

VI. Follow-up and dissemination

22. 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 National Congress, the Defence Ministry and other relevant ministries, as well as to local authorities, where applicable, for appropriate consideration and further action.

23. The Committee recommends that the initial report submitted by the State party and concluding observations adopted by the Committee be made widely available in all languages of the State party, including spoken languages of the indigenous populations, to the public at large in order to generate debate and awareness of the Optional Protocol, its implementation and monitoring.

VII. Next report

24. 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 report under the Convention on the Rights of the Child, in accordance with article 44 of the Convention.