



# 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

Initial reports of States parties due in 2004

Uruguay\*

[24 October 2012]

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\* The present document has not been formally edited.



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<sup>1</sup> Annexes may be consulted in the Committee secretariat's records.

## Introduction

1. The Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict was signed by the Eastern Republic of Uruguay on 7 September 2000, approved by Act No. 17483 of 22 May 2002 (see annex 1) and ratified on 9 September 2003.
2. This national report was prepared and structured on the basis of document CRC/OP/AC/1.
3. The initial report was prepared by the Directorate of Human Rights and Humanitarian Law of the Ministry of Foreign Affairs of Uruguay, in coordination with the Ministry of Defence, using special reports from the military training schools.
4. Open consultations were also held with non-governmental organizations (NGOs) and other civil society bodies engaged in human rights work.
5. The periodic reports submitted by Uruguay to the international human rights treaty bodies, including the report submitted under article 44 of the Convention on the Rights of the Child, contain information on the human rights situation in the country in general and the implementation of the Convention in particular. This report, in view of the requirement for brevity, focuses only on information concerning fulfilment of the provisions contained in the Optional Protocol.
6. The absence of any internal or international conflicts makes it difficult to obtain a full view of the implementation of the standards of the Optional Protocol in the country. Nevertheless, the importance attached to this matter is reflected in Uruguay's commitment to take the necessary measures in peacetime in a preventive approach to such situations, as well as in the incorporation of international humanitarian law in national legislation, and the constant support and encouragement the country offers to this specific issue and to the rights of children and adolescents in general in international forums.
7. The reference date used to determine whether a person fulfils the age requirements for all the purposes of this report is the date of birth.

## Article 1

8. Following a careful analysis of existing texts, no specific definition was found of "direct part in hostilities", as understood according to the international law of armed conflict and international humanitarian law.
9. The expression may be interpreted, however, as occurring in the form of taking part in hostilities in wartime or in a state of war, which is defined in article 63 of the Military Criminal Code as a period or situation characterized by conflict, even at times when hostilities are suspended by a truce or an armistice, whether war has been declared or not, in the course of international or internal conflicts.
10. The provisions applicable for the purpose of preventing the deployment of minors under the age of 18 years in conflict zones include the rules contained in article 77.2 (Protection of Children) of Protocol I Additional to the Geneva Conventions of 1979, approved by Act No. 15764 of 13 September 1985, whereby it is established that the parties to the conflict shall take all feasible measures to ensure that children under the age of 15 do not take a direct part in hostilities and are not recruited into the armed forces.
11. At the time it deposited its instrument of ratification of the Convention on the Rights of the Child, the Eastern Republic of Uruguay declared "... in regard to the provisions of

article 38, paragraphs 2 and 3, that in accordance with Uruguayan law it would have been desirable for the lower age limit for taking a direct part in hostilities in the event of an armed conflict to be set at 18 years instead of 15 years as provided in the Convention. Furthermore, the Government of Uruguay declares that, in the exercise of its sovereign will, it will not authorize any persons under its jurisdiction who have not attained the age of 18 years to take a direct part in hostilities and will not under any circumstances recruit persons who have not attained the age of 18 years.”

12. In addition, the binding declaration made in accordance with article 3, paragraph 2, of the Optional Protocol establishes that: “in the exercise of its sovereign will and in accordance with Uruguayan law, it will not under any circumstances permit voluntary recruitment into its national armed forces of persons who have not attained the age of 18 years”.

13. It is worth noting that there was consensus in the political and social circles of the country with respect to the content of this declaration.

14. This position is reflected in the clause in the Code on Children and Adolescents, Act No. 17823 of 7 September 2004 (see annex II), according to which children and adolescents cannot take part in hostilities in armed conflicts or receive preparation for that purpose.

15. Furthermore, Uruguay is party to the Rome Statute of the International Criminal Court, approved by Act No. 17510 (see annex III) of 27 June 2002, which provides that 15 years shall be the minimum age for recruitment to the national armed forces or for taking part in hostilities, otherwise considered as a war crime (Rome Statute, article 8, paragraph 2, subparagraphs (b) xxvi and (e) vii). In the light of the provisions of the Optional Protocol and other compatible provisions of internal law, in the draft implementation of the Rome Statute submitted to the Legislative in November 2005, it was proposed, in article 26 (34), that the minimum age for conscripting or enlisting children in the armed forces be raised to 18 years.

16. The last declaration of war made by the Eastern Republic of Uruguay occurred in 1945, during the Second World War, but without any dispatch of troops to take part in hostilities. Since then the country has not declared any state of war, except for a brief period of a state of internal war (April–May 1972). It is also important to point out for the purposes of this report that there are no armed groups operating or sheltered in the Eastern Republic of Uruguay.

17. The Armed Forces of Uruguay take part in United Nations peacekeeping missions, to which no personnel under the age of 18 are sent.

## **Article 2**

18. Uruguay has no forced recruitment or compulsory military service. Enlisting is purely voluntary, subject a minimum age of 18 years and any requirements that might arise with respect to military schools. In 2010, framework Defence Act No. 18650 (see annex IV), repealed Act No. 9943 (see annex V) of 20 July 1940, according to which military service had been compulsory, and established instead that “military instruction and military service shall be voluntary”. Reintroducing compulsory military service would require new legislation and there are currently no plans to do so.

19. Upon entry to any of the armed forces’ schools, a person’s age is checked on the basis of the birth certificate, which is a public document, although the date of birth is also given in the identity card.

20. In accordance with the declaration made by Uruguay at the time of depositing the instrument of ratification of the present Protocol, mentioned at the beginning of this report,

the minimum age established for voluntary recruitment is 18 years. In article 4 of Act No. 9943 of July 1940, which still applies, it is already established that the standing army is composed of contracted volunteers between the ages of 18 and 45. There is no legislation allowing any lowering of the minimum recruitment age, not even in exceptional circumstances.

21. Nevertheless, exceptionally and in very limited numbers, the military training schools may admit minors close to the age of 18, on account of the fact that admission requirements for those schools depend on the completion of academic courses that are not necessarily completed by the age of 18. In such cases only, minors under the age of 18 may acquire military status, since, under article 69 of Decree-Law No. 14157 of 21 February 1974 (see annex VI), students of the Officer Training Schools are considered as non-commissioned staff, and as such are part of the military hierarchy (art. 68) and therefore enjoy military status. In such cases, apart from the wish of the minors themselves, the prior consent of parents or guardians is required. However, the entrants are then incorporated into academic establishments and therefore do not join the forces that may be called upon to take part in hostilities, in accordance with article 13 of the above-mentioned Code on Children and Adolescents.

22. With regard to minimum age of admission, article 88 of Decree-Law No. 15688 (see annex VII) of November 1984, concerning the National Army, establishes with respect to volunteer recruits that “the minimum age of admission shall be 18 years, without prejudice to regulations governing pupils and apprentices of the schools and institutes of military training”.

23. As mentioned above, there are no recruits in Uruguay younger than 18 years of age. Pupils of the military schools who are below that age and enjoy military status are exempt from criminal responsibility, whether with respect to ordinary criminal law or to military criminal law, since the Code that regulates the latter, in its article 7, refers to the provisions of Book I of the Ordinary Criminal Code for whatever matters are not subject to exception, such as exemption from criminal responsibility, which is established as beginning at the age of 18 according to article 34 of the Ordinary Criminal Code. There are also specific procedures and jurisdictions that apply to minors (regulated by the Code on Children and Adolescents).

24. For the Military School there are no special conditions regarding age, but, as mentioned earlier, there are academic requirements, which consist in the successful completion of the sixth year of Basic and Higher Secondary Education or the equivalent standard of the Vocational Technical Education Council, which means that in practice few minors under but close to the age of 18 satisfy entry requirements. For admission to the Army School of Music and the Army School of Communications, the minimum age is 16.

25. Article 40 of Decree-Law No. 14747 of December 1977, the Organic Act governing the Air Force (see annex VIII), establishes that recruits for administrative, land security and general service duties must enter as 2nd class soldiers and, among other conditions, must be between the ages of 18 and 30; the Executive has discretion to allow variations to these limits, while article 7 of Act No. 12070 (see annex IX) of December 1953 authorizes the admission of minors to the Air Force Military School.

26. For the Air Force Military School, entrants must have completed 16 years by 1 February of the year in which they join, after which they acquire military status on 1 March (Decree No. 36/002, art. 4). For the Air Force Technical School, entrants must be 16 years of age on 1 December of the year prior to admission (RFA 53-18).

27. In article 116 of Act No. 10808 of October 1946, the Organic Act governing the Navy (see annex X), it is provided that entry to the Navy will be as 2nd class apprentice or seaman, subject, among other conditions, to a minimum age limit of 18, except for entrants

qualifying as apprentices in the specialization schools, which have their own regulations. While the entry conditions of Decree No. 219/003 (see annex XI), approving the Naval School Organizational and Operational Regulations, do not stipulate any minimum age requirements, they do set academic requirements, similar to those of the Military School and with the same effects.

### **Article 3**

28. As indicated above, there is no recruitment of minors under the age of 18. Nevertheless, in the light of considerations regarding the military status of pupils of the military schools, and pursuant to the provisions of article 3, paragraph 5, of the Optional Protocol, the entry requirements to these schools are detailed below.

29. In order for minors to be admitted to military schools, they must, in addition to their own wishes, obtain the prior consent or authorization of their parents or legal guardians. After entry, in addition to the protective measures applying to any student, it is made clear once again that minors under the age of 18 are prohibited from taking part in hostilities. It may also be pointed out that the training these entrants receive never involves the handling of weapons.

30. According to article 124 of Decree-Law No. 14157, pupils of the Armed Forces Officer Training Schools must be recruited in accordance with the applicable regulations.

#### **A. Army Military School**

31. In order to obtain entry to the military school, candidates must pass psychological, medical and dental examinations. In addition they must pass physical aptitude, Spanish language and either history or mathematics examinations (depending on the options they have chosen). Another entry requirement is the grant of a scholarship, for which admission quotas are determined by the General Army Command according to the following criteria:

(a) Seventy-five per cent of applicants from the military high school who have met all the entry requirements, in descending order of the final marks obtained in the admission competition;

(b) Twenty-five per cent of other applicants who have met all the entry requirements, in descending order of the final marks obtained in the admission competition.

#### **Examinations**

32. Candidates must pass the following tests:

- (a) Psychological test;
- (b) Clinical test (medical and dental);
- (c) Laboratory and X-ray test;
- (d) Anthropometric test;
- (e) Ophthalmological test;
- (f) Laboratory and gynaecological tests for pregnancy (for female candidates).

**Documentation**

33. The following documents are required:
- (a) Birth certificate;
  - (b) Identity card;
  - (c) Civil registry certificate;
  - (d) Certificate of allegiance to the flag;
  - (e) Police certificate of good conduct;
  - (f) Vaccination certificate;
  - (g) Certificate showing that the applicant is attending or has passed the sixth year of humanities or science studies;
  - (h) Entry application;
  - (i) Personal and family details form;
  - (j) Three passport photographs.
34. For entry to the Army School of Music and the Army School of Communications, the following documents are required:
- (a) Birth certificate;
  - (b) Identity card;
  - (c) Civil registry certificate;
  - (d) Certificate showing that the applicant has passed the 2nd year of the Basic Cycle for the School of Communications and primary school for the School of Music;
  - (e) Police clearance;
  - (f) Health record;
  - (g) Passport photographs;
  - (h) Entry application.

**B. Air Force Military and Technical School**

35. For entry to the Air Force Military and Technical School, candidates must pass psychological and physical tests. Candidates must also pass a competitive examination in order to obtain a scholarship, the quotas being determined by the General Army Command according to requirements.

**Examinations**

36. Candidates must pass the following tests:
- (a) Clinical test (medical and dental);
  - (b) Laboratory and X-ray test;
  - (c) Psychological and physical test;
  - (d) Laboratory and gynaecological tests for pregnancy (for female candidates).

**Documentation**

37. The following documents are required:

- (a) Birth certificate;
- (b) Identity card;
- (c) Civil registry certificate;
- (d) Vaccination certificate;
- (e) Studies certificate;
- (f) Entry application;
- (g) Passport photographs.

38. For entry to the Air Force Military School, candidates must pass psychological and physical tests, and, if other requirements are satisfied, they will be offered a scholarship according to quotas determined by the higher ranks. Scholarships are granted according to the following criteria:

(a) Ten per cent for applicants from the military school who have met all the entry requirements, in descending order of the qualifications obtained in promotion, conduct and military aptitude tests certified by the military school;

(b) Ninety per cent of other applicants who have met all the regulatory requirements and have completed all the entry tests, in descending order of the final marks obtained in qualified tests.

**Examinations**

39. Candidates must undergo:

- (a) Chest X-rays and frontal and still profile spinal panoramic X-rays;
- (b) Electrocardiogram;
- (c) Electroencephalogram.

**Documentation**

40. The following documents are required:

- (a) Birth certificate;
- (b) Identity card;
- (c) Civil registry certificate;
- (d) Police certificate of good conduct;
- (e) Vaccination certificate;
- (f) Valid health record;
- (g) Secondary education studies certificate showing completion of second year of the Diversified Baccalaureate in any option;
- (h) Entry application;
- (i) Personal and family details form;
- (j) Consent of father, mother or guardian for a candidate to perform the flights required in the course of studies.

## C. Naval school

41. For entry to the Naval School, candidates must pass medical and physical fitness tests. They must also be approved for entry scholarships according to the marks obtained in the competitive examination and vocational interview. In the school, the quotas of available scholarships are determined annually by the General Naval Staff Directorate.

### Examinations

42. Entry candidates must undergo:

- (a) Medical and surgical clinical tests;
- (b) Ophthalmological test;
- (c) Ear, nose and throat test;
- (d) Neuropsychiatric test;
- (e) Dental examination;
- (f) Chest X-ray;
- (g) Laboratory test (blood and urine);
- (h) Laboratory and gynaecological tests for pregnancy (for female candidates).

### Documentation

43. The following documents are required:

- (a) Birth certificate;
- (b) Identity card;
- (c) Civil registry certificate;
- (d) Judicial and police certificate of good conduct;
- (e) Health record;
- (f) Studies certificate;
- (g) Entry application;
- (h) Personal and family details form;
- (i) Personal references certificate;
- (j) Passport photographs.

44. In order to encourage young people to enter the military schools of the armed forces, these advertise in the media, offer informative talks in secondary schools and issue invitations in the written press, apart from running active web pages. Entry to the schools is obtained through scholarships, and students receive pay while attending courses.

45. In the Air Force Military School, students are given an informative talk before they start their basic military training course. Subsequently a talk is also given to parents and guardians.

46. The Army Teaching System includes the Military Institute of Higher Studies (IMES), the Military Arms and Specialization Institute (IMAE), the Military School, the Military High School, Army Weapons Training Schools and Centres, Logistic Support Command and Army General Staff.

47. The training of higher echelons of the Army begins with their entry to the Military School, whose purpose, according to article 54 of Army Organizational Act No. 15688, is to recruit and provide initial training to staff of officer rank.

48. The Military School is fully integrated within the National Educational System, following its recognition in 1993 by the Ministry of Education and Culture as a centre of third level higher learning. These higher studies include basic training in the following academic courses:

- Law (Humanities);
- International Relations (Humanities);
- Engineering (Scientific);
- Architecture (Scientific).

49. The purpose of the General Artigas Military High School is to offer free secondary education in the same study courses and programmes as those of the National Council of Secondary and Preparatory Education, as well as to offer its students pre-military instruction.

50. This school conducts a selective entry system based on cultural, physical and health tests.

51. The courses offered by the school to students who succeed in obtaining a vacancy through the entry examination are completely free of charge.

52. With regard to personal, family, social and working background, it is not possible to identify an average pattern for the school, since students come from different parts of the country and from a very broad social, family and working spectrum.

53. The school is linked to the secondary education system in a strictly technical pedagogical sense, but with regard to psycho-pedagogic, administrative and communal aspects, is directly dependent on the Army Training System.

54. The regulatory framework of the school is the same as that of the Secondary Education system as far as curriculum courses are concerned, while for extra-curricular activities related to pre-military instruction, they come under the current regulations applicable to the army's training activities.

55. The training of non-commissioned staff begins with their entry to the army, where they learn their first rules of conduct within the organization. For this staff, the hierarchical rankings include non-commissioned officers (senior non-commissioned officer, first sergeant and second sergeant), junior non-commissioned officers (1st corporal and 2nd corporal) and enlisted personnel (first-class and second-class soldiers).

56. In their military training, non-commissioned staff also receive continuous instruction in accordance to established objectives, with periods of basic and advanced individual teaching and basic and advanced collective teaching, with supplementary instruction.

57. The National Navy runs the Naval School, which offers young Uruguayans a range of different options.

58. As part of its secondary school teaching, the school offers the fifth year of the humanities and scientific baccalaureate, as well as the sixth year of economics and engineering. For the naval baccalaureate, students complete a cycle of curricular activities which qualifies them, after completion of the sixth year, to receive the title of Bachelor, as in any other high school in the country. This programme offers a comprehensive range of humanistic and scientific subjects, alongside sport and knowledge of the sea.

59. The service careers offered by the Naval School, both military and civil, have been recognized by the University of the Republic as a Bachelor's Degree in naval and nautical systems, according to whether trainees are destined for the national navy or the merchant navy. Young people studying for the naval baccalaureate do not have to follow the service careers taught in the Naval School.

60. With regard to "civil careers", merchant seamen are professionals dedicated to the sea and ships (fishing, passenger, freight and coastal traffic vessels and oil tankers). Graduates are awarded the title of pilot or merchant engineer, depending on their choice upon entry to the school. Similarly, if they successfully submit a thesis, they obtain the title of Graduates in Nautical Systems or Naval Forces.

61. The title of Merchant Seaman issued by the Uruguayan Naval School is recognized and approved by the International Maritime Organization (IMO), which offers graduates a broader range of working opportunities, without the need to revalidate any examinations.

62. It may be mentioned that the International Maritime Academy of Trieste and the National Navy signed an agreement in 2001, designating the Naval School of Uruguay as the Regional Centre for the whole of South America, for post-graduate courses related to maritime activity.

63. The mission of the Naval War School is to train senior naval personnel to perform their assigned tasks and duties in the General Staff. The objective of the school is to give professional training to senior navy officers, preparing them to take on increasing responsibilities with full professional competence.

64. The Naval Strategy and Doctrine Development Centre covers all areas of institutional activity through high level academic courses.

65. The Air Force runs the Air Force Military School, entry to which depends on the successful completion of requirements laid down by the staff policy of the Air Force Command, including completion of the second year of the diversified baccalaureate and being aged between 16 and 20 years. Entry leads to a stage of full mental and physical training, during which the cadets complete a scientific and humanities baccalaureate and receive military training and flying instruction, graduating after 4 years as flight lieutenants or navigators.

66. Once the officers reach the rank of chief officer (major and lieutenant coronel), they will be summoned to the Command and Air Force General Staff School in order to attend courses as part of their preparation to perform their new duties, as commanders of Basic Units or members of the General Staff.

67. Subsequently, on reaching the rank of senior officer, they will again be summoned through the Command and Air Force General Staff School to attend a managerial course for the purpose of training them to hold senior management positions in the school.

68. The candidates also attend modules jointly with students of the Military Institute of Higher Studies (IMES) of the Army and the Combat School of the National Navy (ESGUE) in order to acquire general knowledge leading to more efficient performance in common areas.

69. Technical Air Force Staff enter the armed forces by applying to the Air Force Technical School and being selected for the school's regular courses, from which they graduate after 3 years with the rank of second-class air force technician, specialist in aircraft maintenance, electronics or supply, or by revalidation of comparable qualifications obtained through a professional technical training centre.

70. The offence of desertion in general terms is provided for in articles 48, 49 and 50 of the Military Criminal Code, and incurs a penalty of between 3 and 18 months of

imprisonment. As was explained earlier, since minors under the age of 18 are not held criminally responsible, the above penalties do not apply to them. The drop in attendance at military schools by young people under the age of 18 is simply due to the decline of the schools themselves.

71. In accordance with articles 121, 219, 220 and 221 of Decree-Law No. 14157, the minimum period of effective service applies for 2 years, renewable for minimum periods of 1 year, while leave of absence may be requested at any time, subject to approval. If the pupil is a minor, his or her request needs the consent of parents or legal guardians. At the Naval School, if the consent of parents or legal guardians has not been given, a disciplinary council will be convened, which will recommend to the Director whether to allow the request or take another course of action (Decree No. 219/003, art. 5.6.2).

72. Courses in the Army School of Communications and the Army School of Music require a subsequent stay of 5 years after completion, renewable every 2 years.

73. As mentioned earlier, the pupils of military schools, who exceptionally may be aged under 18 years, enjoy military status, but may not be mobilized under any circumstances, in accordance with the rules referred to above.

74. The departure from military schools, understood as a voluntary act on the part of the cadet, is possible, since young persons who are admitted are free to disengage on request. Minors, however, require the consent of parents or legal guardians.

75. There are no specific mechanisms for either the protection of or complaints against under age pupils of military schools, other than those provided for adults, which generally consist in complaints through hierarchical channels.

76. It should be mentioned, however, that in the Air Force Military School there is also a complaint mechanism through a direct call line provided by the General Air Force Command, while the Air Force Technical School offers complaint mechanisms through a multidisciplinary team of professionals who are employed by the school as psychologists or social workers. There is also a telephone line available for lodging complaints with the social welfare service.

#### **Article 4**

77. Since under Uruguayan law no minors under the age of 18 may be recruited, mobilized or used in hostilities, there are no programmes for demobilization or separation from service.

#### **Article 5**

78. In Uruguay there is no clear legislation regarding the legal status of international treaties. Nevertheless, doctrine mostly recognizes their legal status, since they are approved by law. In the light of articles 72 and 332 of the Constitution (attached), however, it could be argued that international human rights law treaties are incorporated in the legal system with a supra-legal status.

#### **A. National instruments**

79. The Constitution of Uruguay guarantees these rights, in its Section II (see articles 7, 8, 72, 332, 26, 44, 40, 41, 42, 43, 54, 71, 68 and 70 annexed herewith), which refers to Rights, Duties and Guarantees. Moreover, article 332 (which lies outside the

aforementioned section) establishes as follows: “The provisions of the present Constitution which recognize individual rights, as well as those which confer powers and impose duties on public authorities, shall not be without effect by reason of the lack of corresponding regulations ...”.

80. The Code on Children and Adolescents brings the relevant provisions into line with existing international instruments.

81. This Code applies to all persons under the age of 18, as expressed in article 1. A child (*niño*) is understood to mean a person up to the age of 13 and the term adolescent (*adolescente*) applies to persons over the age of 13 and under the age of 18, of either sex.

82. Article 3 of the Code refers to the right of every child or adolescent to special measures of protection on account of their condition as developing persons. Such measures must be provided by the family, society and the State.

83. One particularly noteworthy article is article 9 (Essential Rights), which is worded as follows: “All children and adolescents have an intrinsic right to life, dignity, liberty, identity, integrity, image, health, education, leisure, rest, culture, participation, association, social security benefits and to be treated on equal terms, regardless of their sex, religion, ethnic group or social condition.”

84. The situation of children and adolescents with different capacities is considered in article 10 of the Code, which refers to the right to live in conditions that ensure their social participation through effective access to education, culture and work.

85. With regard to the specific theme of this Protocol, article 13 establishes that: “Children and adolescents may not take part in hostilities in armed conflicts or receive preparation for such purpose”.

86. In this connection it is also worth mentioning the “special protection” afforded under article 15.f, which draws attention to the State’s obligation to give special protection to children and adolescents in “situations that may place their lives at risk or incite to violence, such as the use of or trade in weapons”.

## **B. Regional instruments**

87. With regard to regional instruments, Uruguay has undertaken the following commitments:

88. The American Declaration of Human Rights, signed in Bogotá, Colombia, in 1948.

89. The American Convention on Human Rights (“Pact of San José”, Costa Rica), signed on 19 December 1966, was approved under Act No. 15737 of 8 March 1985.

90. The Additional Protocol to the American Convention on Human Rights in the Area of Economic, Social and Cultural Rights (San Salvador Protocol), approved by the General Assembly of American States on 17 November 1988, was brought into law by Act No. 16519 of 22 July 1994.

91. The Inter-American Convention on the Prevention, Punishment, and Eradication of Violence against Women (Convention of Belém do Pará) was approved by Act No. 16735 of 5 January 1996.

92. The Latin American and Caribbean Conference on the Use of Children as Soldiers (adopted in Montevideo on 8 July 1999).

93. The Inter-American Convention on the Elimination of All Forms of Discrimination against Persons with Disabilities was approved under Act No. 17.330 of 9 May 2001.

### C. Universal instruments

94. As far as Universal Instruments are concerned, the Eastern Republic of Uruguay has undertaken the following commitments:

95. The Universal Declaration of Human Rights, proclaimed by the General Assembly meeting in Paris on 10 December 1948.

96. The following international humanitarian law conventions were approved under Act No. 13683 of 17 September 1968:

(a) Geneva Convention relative to the Protection of Civilian Persons in Time of War;

(b) Geneva Convention for the Amelioration of the Condition of Wounded, Sick and Shipwrecked Members of Armed Forces at Sea;

(c) Geneva Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field;

(d) Geneva Convention relative to the Treatment of Prisoners of War.

97. Protocols 1 and 2 of these conventions entered into effect under Act No. 15764 of 13 September 1985.

98. The following were approved under Act No. 13751 of 11 July 1969:

(a) The International Covenant on Civil and Political Rights;

(b) The Optional Protocol to the International Covenant on Civil and Political Rights;

(c) The International Covenant on Economic, Social and Cultural Rights.

99. The Convention on the Rights of the Child, adopted by the General Assembly on 6 December 1989, was approved under Act No. 16137 of 28 December 1990. The Optional Protocols to this Convention were subsequently approved: the Optional Protocol on the involvement of children in armed conflict, which entered into effect under Act No. 17483 of 22 May 2002, and the Optional Protocol on the sale of children, child prostitution and child pornography, which was approved under Act No. 17.559 of 27 September 2002.

100. The Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty, was approved under Act No. 16279 of July 1992.

101. The International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families was approved under Act No. 17107 of 21 May 1999.

102. International Labour Organization (ILO) Convention 182 concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour was approved under Act No. 17298 of 15 March 2001.

103. The Rome Statute of the International Criminal Court was approved under Act No. 17510 of 27 June 2002, recognizing as a war crime, implying international criminal responsibility: "Conscripting or enlisting children under the age of fifteen years into the national armed forces or using them to participate actively in hostilities", whether by government armed forces, paramilitaries or dissident armed groups.

104. The Convention against Discrimination in Education was approved under Act No. 17724 of 24 December 2003.

105. The Optional Protocol to the Convention on the Rights of the Child on a communications procedure was signed in February 2012. Uruguay will now follow internal preparations for ratification.

## Article 6

106. As mentioned under article 5, in Uruguay there is no clear legislation regarding the legal status of international treaties. Nevertheless, doctrine mostly recognizes their legal status, since they are approved by law. In the light of articles 72 and 332 of the Constitution (attached), however, it could be argued that international human rights law treaties are incorporated in the legal system with a supra-legal status.

107. In addition to the specific legislation already referred to, in 2009 the General Education Act No. 18437 (see annex XII) was adopted in 2009, covering all the educational centres in Uruguay. The complete text of the Act is annexed herewith, but it may be noted that in chapter 1, article 1, education is presented as a fundamental human right; in article 1.4, human rights are considered as the essential reference for the right to education, and in chapter 7, article 40, human rights education is considered as one of the fundamental components running throughout education.

108. Military education, in its specific and technical aspects, is the responsibility of the Ministry of Defence. According to article 105 of the General Education Act:

“General curricular aspects will be governed by the same criteria as the corresponding educational standards. The selection and admission of teachers shall fulfil the same requirements as apply to each educational level. Their study programmes must take account of the fundamental guidelines referred to in article 40 of this Act.

Higher education will be governed in accordance with the norms and provisions derived from the present Act and others added for the same effects.”

109. The article also sets up a Commission made up of representatives of the Ministry of Education and Culture, the Ministry of Defence, the Ministry of the Interior, the National Public Education Administration and the University of the Republic, with the aim of drafting a bill to fully overhaul police and military training, with a target date of 1 January 2012. The Commission sent the bill on 24 August to Parliament (enclosed), where it is established that police and military training, with their specificities, will follow the guidelines of the National Education System. The new law places special emphasis on human rights, environmental education for sustainable human development, education through work, education for health, and artistic, scientific, language and sexual education.

110. As far as exclusive competence for supervising the implementation of the present Protocol, no specific government department or body has yet been designated. At any event, in view of the subject matter, the bodies responsible for supervising the implementation of the Protocol would have to be the Ministry of Defence, the Ministry of Education and Culture, the Ministry of Foreign Affairs, the Uruguayan Institute for Children and Adolescents (INAU), while allowing for other government or civil society institutions or bodies to participate.

111. Since the country’s system of government is democratic and republican, based on the separation of powers, the judiciary provides the essential guarantee as regards the human rights referred to in this Protocol.

112. Moreover, the aforementioned Code on Children and Adolescents, in articles 211 et seq., in turn set up the National Honorary Advisory Council for the Rights of Children and Adolescents as a commission made up of two representatives of the Executive Power —

one of whom will preside — one from the Uruguayan Institute for Children and Adolescents, one from the judiciary, one from the National Public Education Administration, one from the Congress of Mayors, one from the “Luis Morquio” Paediatric Institute, one from the Bar Association and two from non-governmental organizations dealing with the care of children and adolescents.

113. The competence of this Council, which has been operating since 2007, extends nationwide and its objectives include promoting the coordination and integration of sectoral policies for children and adolescents and taking a mandatory part in the preparation of the report for the United Nations Committee on the Right of the Child.

114. It is also worth noting that on 24 December 2008 the Executive Power promulgated Act No. 18446 (see annex XIII), article 1 of which set up the National Human Rights Institution.

115. Articles 1, 36, 75 and 76 of that Act were subsequently amended by Act No. 18806 (see annex XIV) of 14 September 2011, according to which the National Human Rights Institution and the Ombudsman’s Office will be presided over by a joint body of 5 members, to be known as the Governing Board, which will be in charge of managing and representing the Institution (article 36).

116. For the choice of members of the Governing Board, it was decided that the General Assembly would appoint a special commission, to include members of all the political parties represented in Parliament, which would receive applications from candidates in order to draw up a list of those qualified, which would then be submitted to the Office of the President of the General Assembly (article 40).

117. On 8 May 2012, the following members were appointed: Ms. Mariana González Guyer (President), M. Juan Faroppa, Ms. Ariela Peralta, Mr. Juan Raúl Ferreira and Ms. Mirtha Guianze, who will take office on 22 June 2012.

118. As far as financial and human resources allocated to the institution are concerned, its budget was prepared by the Governing Board, fully in accordance with Act. No. 18446 in the version contained in article 3 of Act No. 18066, being approved without amendments.

119. The budget is designed to allow the institution to operate independently and to cover infrastructure and staffing needs. The approved budget covers the period 1 June–31 December 2012, because budgets in Uruguay are renewed and approved every six months.

120. With regard to the training of staff assigned to Peace Missions, the Social Services Directorate of the Ministry of Defence has taken on the responsibility for setting up training workshops for mission staff, with special emphasis on subjects related to human rights.

121. Themes which are common to all training activities include the risks to which staff assigned to peace operations and their families may be exposed, the encouragement to operational staff to take a realistic account of their surroundings in order to strengthen the rights of staff and their immediate environment, and the staff’s knowledge of both their own rights and the rights of those they will be protecting at their mission stations.

122. Starting in 2010 and on the basis of a technical cooperation agreement with the United Nations Economic Commission for Latin America and the Caribbean (ECLAC), pre-deployment training workshops will be organized for staff assigned to the United Nations Stabilization Mission in Haiti (MINUSTAH), the United Nations Organization Stabilization Mission in the Democratic Republic of the Congo (MONUSCO), and the Multinational Force and Observers (MFO) in the Sinai Peninsula.

123. Activities include coverage of human rights subjects, giving candidates the chance to become acquainted with available knowledge, approaches and concepts in that area, while establishing a connection with their own personal rights and the protection of those of

local inhabitants at the place of mission. Coverage includes observation of the application of International Humanitarian Law, with a special emphasis on the protection of children, and issues such as gender, sexual violence and gender, respect for diversity, as well as HIV/AIDS and other sexually transmitted diseases, types of addiction within the framework of the rights to life and health, knowledge of and respect for culture and religion at the place of mission, United Nations anti-discrimination policies, harassment, including sexual harassment and abuse of authority and the policy of zero tolerance for sexual exploitation and abuse.

124. The project was completed with the publication of a manual that summarizes the contents of the workshops and serves as a back-up for and extension of acquired knowledge, as well as a support for the needs of staff and their families before, during and after the mission. This manual is constantly being updated.

125. The workshops also offer the opportunity to distribute additional material, such as a handbook on awareness and prevention of drug addiction, as well as publications supplied by the International Committee of the Red Cross on additional issues close to international humanitarian law.

126. So far 18 workshops have been held in different parts of the country, for staff of the three armed forces and audiences of more than 2200 people between September 2010 and March 2012.

127. In November 2011, under decision No. 89756 of the Executive Power, a working group was set up to offer support for training and further training in human rights within the framework of the development and consolidation of peace, one of its main objectives being to analyze the training and further training needs of staff deployed in mission areas.

128. Contributions to the development of the workshops in the form of talks are provided by representatives of the Ministry of Foreign Affairs, ECLAC, UNAIDS (the Joint United Nations Programme on HIV/AIDS) and international human rights experts.

## **Article 7**

129. Uruguay takes an active part in international forums to explore the issues involved in the Optional Protocol and to adopt practices and resolutions aimed at its conceptual development and implementation. In terms of leadership in areas concerning children and adolescents, Uruguay has supported and fostered common international endeavours. The country is one of the main co-sponsors of the mandate of the Special Representative of the Secretary General for Children and Armed Conflict and works in close coordination with that procedure.

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