



Convention on the Rights of the Child

Committee on the Rights of the Child

Fifty-fifth session

13 September – 1 October 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: Montenegro

1. The Committee considered the initial report of Montenegro (CRC/C/OPAC/MNE/1) at its 1560th meeting (see CRC/C/SR.1560), held on 20 September 2010, and adopted at its 1583rd meeting held on 1 October 2010, the following concluding observations.

Introduction

2. The Committee welcomes the submission of the State party's initial report under the Optional Protocol as well as the written replies to its list of issues (CRC/C/OPAC/MNE/Q/1 and Add.1). The Committee also appreciates the open, frank and constructive dialogue held with the high-level multisectoral delegation. However, it regrets that the report did not follow the revised guidelines adopted in 2007 regarding form and contents of initial reports to be submitted by States (CRC/C/OPAC/2).

3. The Committee reminds the State party that the present concluding observations should be read in conjunction with the concluding observations on the State party's initial report on the Optional Protocol on the sale of children, child prostitution and child pornography (CRC/OPSC/MNE/CO/1) and its concluding observations on the State party's initial report under the Convention (CRC/C/MNE/CO/1), both adopted on 1 October 2010.

I. Positive aspects

4. The Committee welcomes the ratification by the State Party of:

- (a) The Convention on the Rights of the Child and the Optional Protocol on the sale of children, child prostitution and child pornography in October 2006;
- (b) The Geneva Conventions of 1949 and the Additional Protocols I and II thereto in August 2006;
- (c) The Rome Statute of the International Criminal Court in June 2006.

II. General measures of implementation

National plan of action

5. The Committee regrets the lack of information on strategic goals and provisions specifically related to the Optional Protocol in the National Plan of Action for Children (2004-2010).

6. The Committee recommends that the State party include in its new national plan of action goals, provisions and activities related to the implementation of the Optional Protocol by, inter alia, making reference to peace education and disseminating the provisions of the Optional Protocol.

Coordination

7. The Committee notes that the Ministry of Health, Labour and Social Welfare and the Ministry of Defence are in charge of implementing and monitoring the Optional Protocol. However, it is unclear as to what extent this function is exercised consistently and systematically. Furthermore, the Committee regrets the absence of a mechanism or procedure established for the evaluation of the implementation of the Optional Protocol.

8. The Committee recommends that the State party consider strengthening the competencies of the Council of Child Rights with a view to having an institutional mechanism for effective coordination among the ministries involved, and that it provide the mechanism with the competency and the human, financial and technical resources required in order to

evaluate the compliance with the Optional Protocol.

Dissemination and awareness

9. The Committee regrets that the State party has not taken sufficient measures to raise awareness on the Optional Protocol among the general public.

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

Training

11. The Committee welcomes the information provided by the State party during the dialogue that personnel of peacekeeping missions receive a two-week training for the purpose of acquiring the knowledge necessary for performing duties in war, which includes training on the Optional Protocol. However, the Committee is concerned that participants in peacekeeping operations and relevant professional groups working with children may not receive systematic and sufficient training on the provisions of the Optional Protocol.

12. The Committee recommends that the State party consider introducing into the Law on the Involvement of the Army of Montenegro Units in the International Forces and on the Participation of Civil Defence, Police Forces and Employers from Public Administration Authorities in Peacekeeping Missions the obligation to provide personnel of peacekeeping missions with systematic education and training programmes on the provisions of the Optional Protocol. Furthermore, the Committee recommends that the State party continue and strengthen education and training programmes on the Optional Protocol for members of the armed forces, including those deployed to international peacekeeping forces. It also recommends that the State party develop systematic education and training programmes on the provisions of the Optional Protocol for all relevant professional groups working with and for children and in particular military officials involved in recruitment, judges, prosecutors, immigration officials and social workers.

III. Prevention

Voluntary recruitment

13. The Committee regrets that legislation does not explicitly prohibit persons under the age of 18 from joining the armed forces in all circumstances, including in a state of war and in a state of martial law.

14. The Committee recommends that the State party review the Law on Defence and the Law on the Army of Montenegro in order to prohibit the direct involvement in hostilities of persons under the age of 18 in all circumstances and in that regard proceed to amend the declaration made upon ratification of the Optional Protocol.

Peace education

15. While noting that human rights education is included in the curricula of primary and secondary schools, the Committee is concerned that there are no programmes to systematically include peace education into the school curricula.

16. With reference to its general comment No. 1 (2001) on the aims of education, the Committee recommends that the State party undertake efforts to include peace education in the school curricula, with special reference to crimes covered by the Optional Protocol.

IV. Prohibition and related matters

Criminal legislation and regulations in force

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

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

Jurisdiction and extradition

19. The Committee notes that extraterritorial jurisdiction may be exercised on the grounds of approval by the Supreme State Prosecutor. However, it regrets that extraterritorial jurisdiction is subject to the criterion of double criminality.

20. The Committee recommends that the State party take steps to ensure that domestic legislation enables it to establish and exercise extraterritorial jurisdiction over crimes covered by the Optional Protocol and recommends establishing extraterritorial jurisdiction over crimes under the Optional Protocol without the criterion of double criminality.

V. Protection, recovery and reintegration

Assistance for physical and psychological recovery

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

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

VI. International assistance and cooperation

International cooperation

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

Arms and arms export

24. The Committee appreciates the information, provided by the State party delegation during the dialogue, on campaigns undertaken in order to encourage citizens to hand over small arms and light weapons in their possession for destruction under the supervision of the State authorities. Furthermore, the Committee notes that a permit from the Ministry of Foreign Affairs, the Ministry of Defence and the Ministry of Internal Affairs is required for each sale, export or transit of military weapons and equipment and that there is a list of countries to which the State party will not deliver, as they are known to be, or may potentially be, recruiting or using children in hostilities. However, the Committee regrets that the national legislation does not contain a specific prohibition of the sale of arms, including small arms and light weapons, to countries known to be, or that may potentially be, recruiting or using children in hostilities.

25 . The Committee recommends that the State party continue to raise awareness through information campaigns on the dangers of storing arms and weapons. Furthermore, the Committee recommends that the State party take measures to ensure that those responsible for controlling the sale, export or transit of arms, including small arms and light weapons and military equipment , are made aware of the Optional Protocol and are guided, during the relevant decision-making processes, by its provisions. The Committee also recommends that the State party consider introducing a specific prohibition with respect to the sale of arms, including small arms and light weapons, when the final destination is a country where children are known to be, or may potentially be , recruited or used in hostilities.

VII. Follow-up and dissemination

26 . The Committee recommends that the State party take all appropriate measures to ensure the full implementation of the present recommendations, inter alia, by transmitting them to the Head of State, the Supreme Court, Parliament, relevant ministries and local authorities for appropriate consideration and further action.

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

VII. Next report

28 . In accordance with article 8, paragraph 2, the Committee requests the State party to include further information on the implementation of the Optional Protocol and the present concluding observations in its next periodic report under the Convention , due on 1 October 2015 , in accordance with article 44 of the Convention .