



## Convention on the Rights of the Child

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### Committee on the Rights of the Child Forty-sixth session

#### Summary Record of the 1258th Meeting

Held at the Palais Wilson, Geneva, on Tuesday, 18 September 2007, at 10 a.m.

*Chairperson:* Mr. Zermatten

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*The meeting was called to order at 10 a.m.*

**Consideration of reports of States parties (item 4 of the agenda)**

*Initial report of Croatia on the implementation of the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict ((CRC/C/OPAC/HRV/1); list of issues to be taken up (CRC/C/OPAC/HRV/Q/1); written replies by the State party concerning the list of issues (CRC/C/OPAC/HRV/Q/1/Add.1)).*

1. At the invitation of the Chairperson, the delegation of Croatia took places at the Committee table.
2. **Mr. Sočanac** (Croatia) noted that the recommendations made by the Committee on the Rights of the Child following consideration of the second periodic report of the State party on the implementation of the Convention on the Rights of the Child had been widely disseminated and had acted as guidelines for the formulation of the National Plan of Action 2006-2012 on Children's Rights and Interests.
3. Croatia had been one of the first countries to sign the International Convention for the Protection of All Persons from Enforced Disappearance and to ratify the Convention on the Rights of Persons with Disabilities; the principles of those Conventions had for the most part been incorporated into the national strategy in this field.
4. The Defence Law of April 2002, which entered into force even before the Optional Protocol on the involvement of children in armed conflict had been ratified by Croatia, brought Croatian law into conformity with the principal provisions of the Protocol, in particular by setting the minimum age for conscription and involvement in hostilities at 18 years.
5. The very significant amendments made in July 2007 to the National Defence Law empowered Parliament to take the decision to recruit only volunteers to perform military service (until the end of the year in which they reached the age of 30). In the event of war or sudden threat to the country, military service became compulsory once again. Military service, now on a voluntary basis, was also open to women. The new arrangements reflected the desire of Croatia to put its army on a professional footing while at the same time contributing to the practical implementation of the Protocol in the country.
6. With regard to article 4 of the Protocol, no armed group distinct from the armed forces was authorized in law to operate in Croatia and no group of that kind had been reported in the country. The acts described in that article were not criminalized as such in Croatian law but the Penal Code prohibited and severely punished the recruitment of children into the national armed forces or their use in direct hostilities in times of war, armed conflict or occupation.
7. Croatia was also party to the International Convention against the Recruitment, Use, Financing and Training of Mercenaries and had as a result amended its Penal Code as in detailed in the written replies.
8. Conscripts could not be deployed on peacekeeping operations abroad pursuant to the Law on Participation of Members of the Croatian Armed Forces, Police, Civil Protection and Civil Servants in Peacekeeping Operations and the Other Activities Abroad. Moreover, no provision of Croatian law authorized a lowering of the age of conscription, even in exceptional circumstances.

9. Under the established system, local recruiting offices entered young recruits on their register and called them up under a general or personalized procedure. All potential recruits were required to produce an identity document or other document verifying their age – a procedure designed to prevent a minor from enlisting in the armed forces. Young Croats resident abroad were not called up but instead were entered on the register on the basis of information supplied by the diplomatic missions or consular services of the Republic of Croatia.

10. Croatia did not have any secondary education establishments that were operated by or under the control of the armed forces within the meaning of article 3, paragraph 5, of the Protocol. Within the meaning of the Law on Service in the Armed Forces of the Republic of Croatia, the term “cadet” meant a conscript who was “educated at a military school under a contract of education”.

11. Great importance was attached to the training of staff responsible for conscription, and each member of the armed forces undertook training in international humanitarian law, the law of armed conflict and human rights, including children’s rights.

12. Croatia had signed and ratified the Protocol in 2002, only two years after its adoption by the General Assembly of the United Nations, and the Protocol itself was published in the Official Journal. Pursuant to the Croatian Constitution, international agreements ratified by Croatia were an integral part of the internal legal order and took precedence over national law. The Protocol was therefore able to be directly applied in the country and moreover, Croatian courts took decisions on the basis of international agreements as provided for in the Law on the Courts.

13. Having been ravaged by war and the horrors of war in the 1990s, Croatia was very interested in being involved in combating the recruitment of child soldiers in certain countries, a practice that constituted the worst form of exploitation of children and a direct violation both of the principle of the best interest of the child and of a number of rights, including the right to be brought up by one’s parents and the right to life.

14. **Mr. Parfitt** enquired whether it was true that in certain circumstances young people age 17 had to register with recruiting offices although Croatian law prohibited the recruitment of persons under age 18, and asked for details on the criminal penalties incurred for the recruitment of children under age 18 into the armed forces.

15. He asked whether the Children’s Ombudsman was able to exercise authority over the armed forces and the police and whether, as recommended by the Committee in its concluding observations in 2004, the Ombudsman’s Office had been allocated the necessary human and financial resources to be able to exercise its monitoring role in particular.

16. It would be useful to know what rehabilitation services the State party would be able to offer to a child soldier seeking asylum in Croatia: currently the care of children affected by armed conflict was provided by non-governmental organizations (NGOs) and the Office of the United Nations High Commissioner for Refugees (UNHCR).

17. The delegation might also outline the measures taken to disseminate the Protocol among the public.

18. It would also be useful to know whether the legislative and regulatory provisions in force in Croatia in respect of trade and the adoption of the principles of the European Union Code of Conduct on Arms Exports were sufficient to prevent arms exports to countries where children might be recruited as soldiers.

19. **Ms. Khattab** asked whether persons deployed on peacekeeping operations received specific training on children's and women's rights and enquired what qualifications were required in order to participate in the operations.
20. The delegation might indicate whether Parliament was likely to welcome the amendments proposed by the Ombudsman; it might also outline the protection measures planned by the Parity Committee established within the Ministry of Defence.
21. Further information on the universal jurisdiction established in certain circumstances under the Penal Code (article 14, paragraphs 1, 4 and 5), particularly in the event of stalemate between Croatia and Serbia, would be welcome as some offenders might flee the country and thereby evade justice.
22. **Mr. Filali** asked whether judges received appropriate training in the implementation of international instruments, whether the delegation could cite any examples of court rulings based on an international agreement and enquired what means of intervention were open to the Children's Ombudsman with regard to the Ministry of Defence.
23. It would be useful to know whether cadets could be under 18 years of age, whether they could break the training contract they had signed, whether the contract contained a protection clause and whether the parents of the person concerned were party to the contract.
24. **Ms. Vuckovic-Sahovic** enquired whether the main ideas enshrined in the Protocol were disseminated among children, the extent to which the Protocol and the report of the State party had been made public and whether the concluding observations of the Committee would be discussed.
25. She wondered whether individuals under age 18 were introduced to arms drills as part of military training.
26. **Ms. Aidoo** asked to what extent the members of civil society had participated in the formulation of the report of the State party and whether the principles and provisions of the Protocol had been disseminated among adults and children in conformity with article 6 of the Protocol.
27. In view of the high level of unemployment, which stood at 17 per cent, persons under 18 years of age were likely to be tempted into a military career where prospects were better and it would therefore be useful to know what means was being done to prevent that from happening.
28. **Mr. Citarella** asked for some examples of the way in which the Protocol had been interpreted and implemented by the courts in the State party.
29. He asked about the age at which young people were able to enter military schools and police schools in Croatia and whether they were operated by military or civilian personnel. It would be useful to know whether studies at those schools culminated in direct recruitment into the army.
30. The delegation might indicate whether there were any special provisions to tackle the issue of young people crossing international borders, especially from Serbia, to ensure that they had not been involved in military operations and to combat cross-border trafficking in children generally.

31. **Ms. Smith** asked whether the State party intended to extend its extraterritorial jurisdiction to crimes which violated international law that were committed by nationals of other States in other countries.

32. **Mr. Krappmann** asked whether peace education was taught in schools, whether teachers received training in that subject and whether there were exchange programmes between young people from different countries: such programmes could make a contribution towards ensuring a peaceful future.

33. **Mr. Kotrane** asked whether the Croatian courts had heard any war crimes cases, particularly in relation to the involvement of children under age 15 in armed conflict, including outside Croatian territory, and whether legal proceedings of that kind were permitted under Croatian criminal law.

34. **Mr. Pollar** requested details on the debate that had unfolded in Croatia prior to the adoption of the Protocol. He asked which bodies were responsible for implementing the Protocol and how regularly the State party assessed progress made in its implementation. The delegation might indicate whether the Protocol was accessible to minorities and whether legal experts and health-care professionals received training in it.

35. **Ms. Ortiz** asked for details on the sale, circulation and production of light arms in the State party.

*The meeting was suspended at 10.55 a.m. and resumed at 11.15 a.m.*

36. **Ms. Kuzmanić-Oluić** (Croatia) said that no cases requiring specific application of the provisions of the Protocol had yet been brought before the Croatian courts. Nonetheless, judges and prosecutors received training in that regard. There was no special mechanism to monitor the implementation of the Protocol but specific measures had been taken, in particular the recent amendment of the National Defence Law, which introduced the option of voluntary military service, and the amendment to the Penal Code which now criminalized the recruitment of children in time of war.

37. The recommendations the Committee were to make following consideration of the initial report on the implementation of the Protocol would be widely disseminated, and debates on possible amendments to the law in force would contribute to the implementation process.

38. The annual curricula of the Diplomatic School provided for between six and eight hours of education in human rights, focusing inter alia on the protection of the rights of the child. The Committee's recommendations would be disseminated to all relevant ministries and the Children's Ombudsman, among other bodies. The publication "Children and society", which had been distributed to almost all schools in Croatia, was also making a significant contribution to dissemination of the Protocol. A round table which would act as a forum for exchanges of views between members of civil society, non-governmental organizations (NGOs) and representatives from the Government was to be established.

39. The issue of children involved in armed conflict was addressed in the National Plan of Action for Children which provided among other things for the compilation of a register of children affected by armed conflict, the identification of their needs and improvement in the psychosocial care they received.

40. Croatia supported the United Nations initiative on the appointment of a Special Representative of the Secretary-General on Violence Against Children and had drawn up the

“Plus 5” review of the 2002 Special Session on Children and the World fit for Children Plan of Action. Furthermore, Croatia had ratified the Council of Europe Convention on Action against Trafficking in Human Beings and was preparing to sign the Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse.

41. **Mr. Kotrane** noted that under the Protocol States were required to take internal measures to enable legal proceedings to be brought in respect of acts such as war crimes, even when they had been committed abroad: the fact that the Protocol took precedence over domestic law did not confer power on a judge to bring legal proceedings against the perpetrators of crimes which were not classified as offences under Croatian law.

42. **Mr. Filali**, recalling that some Conventions, including the Geneva Convention relative to the Protection of Civilian Persons in Time of War, required States parties to take the legislative measures necessary to transpose the provisions they contained into the domestic legal order, asked whether Croatia, which had ratified the Rome Statute of the International Court of Justice, had provided for penalties for offences such as the recruitment of children.

43. **Ms. Blažević** (Croatia) said that in Croatia the recruitment of children by a foreign State was a war crime pursuant to article 158 of the Penal Code, paragraph 1 of which contained a provision on the protection of persons under 18 years of age; pursuant to that provision anyone who, in violation of international law in time of war, armed conflict or occupation, recruited a child into the national armed forces or used a child directly in hostilities incurred a penalty of at least five years imprisonment. The delegation had no knowledge of any instances of children being recruited on its territory by other States in violation of article 158.

44. The recruitment of children by armed groups was also an offence in peacetime under Croatian ordinary law; by way of example, labour law prohibited the recruitment of children for any activity injurious to their health. The penalties incurred in the event of a violation of that principle ranged from very heavy fines to 12 years' imprisonment in the event of injury to or death of a child. However, hitherto the Croatian courts had not dealt with any case involving the recruitment of children into the armed forces.

45. Pursuant to article 140 of the Croatian Constitution, ratified international agreements which were published in the Official Journal were directly applicable and even took precedence over domestic laws. Certain specific provisions had also been adopted at national level. As a result, the National Defence Law defined a child as any person below 18 years of age and prohibited recruitment of people below that age. Pursuant to that law, military service obligations took effect at the beginning of the year of an individual's 18<sup>th</sup> birthday and were discharged upon completion of secondary or higher education, as appropriate. Before being recruited, conscripts had to sit medical examinations and psychological tests to assess aptitude for military service (these were conducted in civilian premises by a civilian agency operated by the Ministry of Defence and ensured that no minor was recruited. The register of conscripts was an official, public document compiled on the basis of data held by the Ministry of the Interior. It was drawn up by duly trained officials and the act of amending the register in any manner constituted a criminal offence. Nationals of an age to discharge their military obligations who were resident abroad were entered in the register on the basis of information supplied by Croatian diplomatic missions or consular services.

46. **Mr. Parfitt** enquired how many children had benefited from the psychosocial aid services provided for in the National Plan of Action and whether the duration of military and public service was the same.

47. **Ms. Jurić Matejčić** (Croatia) replied that public service was very attractive because it allowed the individual to work in an area related to the studies he had undertaken and only lasted three months longer than military service, in other words nine months compared to six. Soon the issue would no longer arise because the Croatian army was in the process of becoming a professional army only.

48. **The Chairperson** asked whether the high rate of unemployment encouraged some minors to falsify their identity documents so that they could apply to join the army.

49. **Mr. Citarella** asked the delegation to explain whether compulsory conscription involved women as well as men and to outline the criteria for exemption.

50. **Ms. Jurić Matejčić** (Croatia) said that despite the high rate of unemployment, young people had never been attracted in large numbers to a military career, doubtless because of the low wages. The issue of falsified documents had therefore, to her knowledge, never arisen. The amendments made in July 2007 to the National Defence Law provided for the army to become professional within six months. Conscription would therefore be abolished by the end of 2007, although it might be reintroduced if necessary, including in the event of foreign aggression. Conscripts who had been due to be called up by the end of the year might not be – Parliament had the option of lifting military service obligations for the individuals concerned following a proposal from the Head of State in his capacity as head of the Armed Forces. Conscription, which was governed by the National Defence Law, was an administrative procedure and decisions relating to conscription could therefore be contested in the civil courts.

51. Conscription affected men only, but women were increasingly opting for a military career and a significant number were working in prestigious roles such as doctors or fighter pilots.

52. Croatia was a small country with a small army and had taken the view that there was no point in establishing secondary military schools. “Cadets” were individuals who had completed their secondary or even higher education and who were being paid to undertake military training under a contract which guaranteed them a place in the army upon completion. They were all therefore at least 19 years of age.

53. All military personnel received training in humanitarian law and the provisions of the various international instruments ratified by Croatia. Staff assigned to work in recruitment had to answer questions on the provisions of the Optional Protocol as part of a written and oral examination to successfully complete their training; a pass in that examination was a compulsory requirement for a public service post.

54. **Ms. Khattab** asked whether any cases of violations of women’s or children’s rights by members of the armed forces deployed on peacekeeping operations had been reported.

55. **Ms. Jurić Matejčić** (Croatia), who had no knowledge of cases of violations of this type, stated that Croatian military personnel deployed abroad as part of peacekeeping missions were for the main part small contingents which were attached to larger contingents from other countries.

56. **Ms. Kuzmanić-Olučić** (Croatia) observed that the new Croatian legislation had raised the minimum age for enlistment in time of war from age 18 to age 20 and therefore went beyond the international standard. The issue of a minimum age for recruitment in peacetime was still open, however.

57. **Ms. Hrabar** (Croatia) said that the Children's Ombudsman was fully independent and accountable only to Parliament. His principal task was to ensure respect for the rights of the child and to scrutinize all bills affecting children and to make any necessary improvements to them so that they took better account of the interest and rights of the child. Children who considered themselves victims of a violation of their fundamental rights were able to refer the matter directly to the Ombudsman or one of his three regional offices. They were also able to approach the child protection services and the juvenile courts.

58. **Ms. Khattab** asked whether the amendments to the bills recommended by the Ombudsman were generally accepted by the legislator.

59. **Ms. Hrabar** (Croatia) explained that the Children's Ombudsman had immense prestige in Croatia and that his opinions and recommendations carried great weight. All bills on children were submitted to him and most of the amendments he proposed were taken into account. The Ombudsman worked closely with Ministers on all issues affecting children. There was no escaping the fact that the Ombudsman should have greater financial resources to be able to discharge his mandate more efficiently.

60. Croatia did not have any precise information on child asylum-seekers who had been involved in armed conflict. The many institutions which had had to deal with such children in the past had never kept account of how many there were. Children involved in armed conflict had received considerable support after the war. Over the years the support had diminished but the children were still able to receive psychological and medical help.

61. Peace education was only in its infancy whereas educational programmes on human rights in secondary school and at university were very well established. School textbooks contained chapters on human rights in general and children's rights in particular. In cooperation with UNICEF, the Ministry of Education had also launched an awareness campaign about violence.

62. **Ms. Blažević** (Croatia) said that pursuant to the Asylum Law of 2003, child asylum-seekers, whether accompanied or not, were allocated a guardian by the child protection services. Regardless of their status, children were able to exercise their rights to health-care, education and humanitarian aid.

63. **Ms. Kuzmanić-Oluić** (Croatia) said that the delegation did not include any specialists on arms-related matters and as a result it was difficult to answer the question on the production and export of light weapons. Generally speaking one had to be at least 18 years of age to purchase arms and to have obtained prior authorization from the authorities. The export of arms was governed by the Trade Law and the Arms Manufacture and Trade Law. Croatia had signed the European Union Code of Conduct on Arms Exports and was party to the Protocol against the Illicit Manufacturing of and Trafficking in Firearms, Their Parts and Components and Ammunition, supplementing the United Nations Convention against Transnational Organized Crime.

64. NGOs had not been consulted for the purposes of formulating the report under consideration but Croatia intended to put that right by holding a round table in the near future to inform interested parties about the discussions between the delegation and the Committee and the Committee's recommendations.

65. **Mr. Parfitt** thanked the delegation for the information it had supplied at the meeting and noted that Croatia was substantively in compliance with the requirements set out in the Optional Protocol but would have to ensure that all provisions of international instruments of interest to the Committee were duly transposed into domestic law.

66. **Mr. Sočanac** (Croatia) gave an assurance that the Croatian delegation would supply further information as soon as possible on those points where clarification had been requested.

67. **The Chairperson** urged Croatia to disseminate the Committee's recommendations widely and to submit its report on the implementation of the Optional Protocol on the sale of children, child prostitution and child pornography.

*The meeting rose at 12.50 p.m.*

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