



Convention on the Rights of the Child

Distr.: General
7 April 2010
English
Original: French

Committee on the Rights of the Child Fifty-second session

Summary record* of the 1436th meeting

Held at the Palais Wilson, Geneva, on Tuesday, 22 September 2009, at 10.00 a.m.

Chairperson: Ms. Lee

Contents

Consideration of reports of States parties (*continued*)

Initial report of Poland under the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict

Initial report of Poland under the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography

* No summary record was prepared for the 1434th and 1435th meetings.

This record is subject to correction.

Corrections should be submitted in one of the working languages. They should be set forth in a memorandum and also incorporated in a copy of the record. They should be sent *within one week of the date of this document* to the Editing Unit, room E.4108, Palais des Nations, Geneva.

Any corrections to the records of the public meetings of the Committee at this session will be consolidated in a single corrigendum, to be issued shortly after the end of the session.

The meeting was called to order at 10.10 a.m.

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

Initial report of Poland under the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict (CRC/C/OPAC/POL/1, HRI/CORE/POL/2009, CRC/C/OPAC/POL/Q/1, and CRC/C/OPAC/POL/Q/1/Add.1)

Initial report of Poland under the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography (CRC/C/OPSC/POL/1, HRI/CORE/POL/2009, CRC/C/OPSC/POL/Q/1, and CRC/C/OPSC/POL/Q/1/Add.1)

1. *At the invitation of the Chairperson, the delegation of Poland took places at the Committee table.*
2. **Mr. Rapacki** (Poland) stressed that Poland, as one of the prime movers behind the drafting of the Convention on the Rights of the Child, attached great importance to the promotion and protection of the rights of the child.
3. He said that the provisions of the Optional Protocol on the involvement of children in armed conflict were usually disseminated within the framework of awareness-raising activities on international humanitarian law, organized in cooperation with the International Committee of the Red Cross. Numerous measures had been taken to give greater importance to the teaching of military law in practical training for soldiers, to strengthen training at all levels and to train instructors in military law. Officers participated in international seminars and courses on that area of law. Handbooks dealing specifically with international humanitarian law had been prepared for Polish military contingents.
4. Following the amendment of the provisions of article 166 of the Act of 21 November 1967 on the universal duty to defend the Republic of Poland, a new subject called “Education for Safety” had been introduced in secondary schools from the 2009/10 school year. Its objective was to familiarize pupils with the functioning of civil defence, the main instruments of international humanitarian law and the mandate of the International Red Cross and Red Crescent Movement. In 2008, the Ministry of National Education signed ordinance No. 32 concerning the appointment of a team to coordinate implementation and monitoring of the “Exploring Humanitarian Law” programme in schools.
5. Article 58 of the Act on the universal duty to defend the Republic of Poland made military service compulsory for all men of Polish nationality from 1 January of the calendar year in which they reached the age of 18 years and for women of Polish nationality with qualifications useful for military service from 1 January of the calendar year in which they reached the age of 18 years. Voluntary military service was regulated by articles 32 and 83 of the same Act. Men and women over the age of 18 years could volunteer for service.
6. The bill amending the Act on the universal duty to defend the Republic of Poland, which would come into force on 1 January 2010, aimed to professionalize the army. He pointed out, however, that the President of the Republic could decide to reintroduce compulsory military service if he judged it necessary for the protection of national security.
7. The Act of 2003 on the protection of aliens within the territory of the Republic of Poland specified the scope of assistance provided to foreigners seeking refugee status, including minors. Article 62 of the Act provided for unaccompanied minors seeking refugee status to be placed in a foster family or an educational care facility. In practice, all minors were placed in educational care facilities.

8. Children placed in such centres were provided with food and accommodation, and received pocket money and financial assistance to purchase toiletries. They received the same medical care as Polish children. In addition, reception centres for foreigners provided psychological support, which was also available for minors.

9. School attendance was compulsory for the children of foreign parents seeking refugee status, on the same terms as Polish children. Schools attended by them could employ an assistant from the same ethnic group. In addition, they could receive higher secondary education on the same terms as Polish children.

10. In some centres, children took part in educational and integration activities run by non-governmental organizations (NGOs). Most centres had nursery schools adapted to the children's needs, which were run by the refugees themselves under the supervision of the centre's staff or by volunteers from NGOs working in partnership with the Office for Foreigners.

11. No case of any foreign minors previously involved in armed conflict and seeking refugee status had been reported. Some minors, however, could have witnessed armed conflict.

12. He pointed out that the Office for Foreigners was conducting, within the framework of the EQUAL Community Initiative Programme and European Asylum Curriculum, a programme to encourage vocational activity and social involvement of foreigners, including minors, seeking refugee status. As part of the programme, foreigners received legal and psychological support, vocational, computer and language training, as well as classes on Polish society.

13. In 2009, as part of its foreign aid programme, the Ministry of Foreign Affairs had implemented a project supporting the social reintegration of internally displaced persons, which included therapeutic and recreational workshops for displaced children in Armenia and Azerbaijan. Programmes had also been carried out in Sudan, Chad and Iraq.

14. Turning to the second Optional Protocol, he emphasized that the effort to control the sale of children, child prostitution and child pornography required the adoption of comprehensive solutions, particularly given the complexity of the process of detecting offences, the methods of acquiring and collecting evidence and the existence of international organized crime groups. Accordingly, numerous public institutions, both at the national and local levels, were involved in activities in that area. The draft definition of trafficking in human beings mentioned in the written replies to the list of issues had been approved by the Council of Ministers and would be submitted to parliament.

15. Apart from the central team to combat trafficking in human beings, established in September 2006 in the central police headquarters, and the permanent teams of two to five people set up at the local level, a team to coordinate activities to prevent and punish trafficking in human beings had been established within the National Border Guard Service.

16. A coordinator for issues relating to trafficking in human beings had been appointed in the National Public Prosecutor's Office. Likewise, coordinators were mandated in courts to assist prosecutors in complicated proceedings concerning trafficking in human beings. Training courses for judges, prosecutors, police officers and border guards covered the issue of trafficking in human beings. Moreover, guidelines had been adopted for prosecutors on the treatment of victims of trafficking, including child victims.

17. In April 2009, the National Intervention and Consultancy Centre for Victims of Trafficking had been established within the framework of the 2009–2010 National Action Plan against Trafficking in Human Beings to assist Polish or foreign victims. The Action Plan had several components, including an awareness-raising campaign for schoolchildren, during which the Polish translation of the Council of Europe comic strip called "You're not

for sale” and an information leaflet would be distributed. In addition, training on trafficking in human beings was provided for educators, who would subsequently lead meetings with school pupils. Information sessions would also be organized by police officers and other speakers. Lastly, specialized training courses would be organized for social services employees and particularly staff from emergency reception centres.

18. The Team for the Prevention of Discrimination against Minors in Electronic Media, established by decision of the Government Plenipotentiary for Equal Treatment, was mandated to propose legislative amendments to protect minors, to take part in awareness-raising campaigns and to issue opinions on cases of discrimination against minors resulting from their exposure to harmful content. It had contributed to the adoption of two codes of best practices to strengthen child protection in the mass media, namely the Agreement for Child Safety on the Internet, reached between service providers, Internet portal owners and NGOs and the Best Practices Code adopted by the Association of Producers and Suppliers of Entertainment Software. The team was also working to introduce into the school curriculum the safe use of computers and the Internet by children.

19. The Criminal Code had been amended in late 2008 to increase protection for children against sexual abuse. Under the provisions of article 202, paragraph 4 (b), any person producing, disseminating, distributing, storing or possessing pornographic material showing images of a minor participating in sexual acts would be liable to a fine, a penalty of restricted freedom or a custodial penalty of up to two years.

20. A coordinator had been appointed within the National Prosecuting Authority to combat child sexual abuse in order to make prosecution of offences covered by the Protocol more effective. Similar provincial-level posts had been established. Furthermore, a prosecutor had been specially mandated within the National Prosecuting Authority to combat cybercrime.

21. Human rights were taught in primary and secondary schools. The Council of Europe manual on human rights education for children had been published in Polish.

22. A number of campaigns to raise public awareness of the seriousness of the offences covered by the Protocol were conducted by public institutions and NGOs. In addition, emergency hotlines had been set up for children and adults needing assistance or wanting to report an offence.

23. The authorities were striving to strengthen cooperation with NGOs and financial institutions, particularly within the framework of initiatives such as the National Coalition for a Safer Internet or the Polish Network against Commercial Sexual Exploitation of Children, which had had positive outcomes.

Consideration of the initial report of Poland under the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict

24. **Mr. Pollar** (Country Rapporteur for the Optional Protocol on the involvement of children in armed conflict) said that he was pleased that the State party was considering a draft amendment to the Criminal Code expressly prohibiting the conscription of any person under the age of 18 years.

25. He requested additional information on military schools and whether there were any minors in such schools and enquired what measures the State party had taken to ensure that there were no former child soldiers on Polish territory and what provisions it had made to identify any child soldiers.

26. Lastly, he would like to know what the State party was doing to ensure that weapons it exported to countries experiencing conflict did not end up in children’s hands and he

asked for further details on the status of the Optional Protocol in the State party's legal order.

27. **Mr. Guran** asked what measures had been taken by the authorities to coordinate the implementation and dissemination of the Optional Protocol on the involvement of children in armed conflict and what budget was available. He asked whether the Ombudsman's Office had access to military schools and whether complaints regarding the application of the Protocol could be referred to it.

28. **Mr. Citarella** wanted to know whether a 17-year-old adolescent could enlist as a volunteer in the armed forces and whether, under current legislation, young Poles could be recruited by foreign private security companies for activities that might lead to their involvement in armed conflict.

29. **Mr. Krappmann** asked whether studying the Optional Protocol on the involvement of children in armed conflict was compulsory within the framework of the human rights curriculum. He would also like to know whether the State party was doing what was necessary to identify children who might have been involved in armed conflict.

30. **Mr. Zermatten** would like to know whether reform of the Criminal Code making the recruitment of persons under the age of 18 years a criminal offence had been adopted and asked whether a 17-year-old could be recruited by an American company to join armed forces fighting in Afghanistan.

31. **Ms. Villarán de la Puente** wanted to know whether there were statistics on the number of small arms held by minors in the State party and whether political and legislative measures had been taken to limit the possession of small arms by minors.

32. **The Chairperson** noted that the State party had not followed the reporting guidelines and that the written replies to the list of issues were at times insufficient. She asked for details of psychological rehabilitation programmes for children and the types of training on the Optional Protocol provided for military personnel. Lastly, she would like to know whether oversight authorities, including United Nations teams, had free access to military schools and asked for clarification on the role of the Ministry of Education in coordinating implementation of the Optional Protocol.

The meeting was suspended at 11.00 a.m. and resumed at 11.30 a.m.

33. **Ms. Oleksiak** (Poland) said that the National Ministry of Defence had launched a number of initiatives to include international humanitarian law in training for future soldiers, officers and instructors. Poland also had a range of educational resources and manuals on humanitarian law in armed conflict and was working to promote knowledge of the various Conventions, Protocols and international instruments, with the cooperation of the Polish Red Cross.

34. **The Chairperson** asked if the State party provided teaching on the provisions of the Optional Protocol on the involvement of children in armed conflict and whether educational materials and manuals dealt with the issue.

35. **Ms. Oleksiak** (Poland) said that the teaching of international humanitarian law covered the Convention on the Rights of the Child and its Optional Protocols. Soldiers were therefore acquainted with the provisions of those instruments.

36. **Mr. Krappmann** asked whether studying the Protocol was optional in secondary education for pupils who had chosen to study international humanitarian law and other related subjects.

37. **Mr. Rapacki** (Poland) replied that it was compulsory.

38. **Ms. Oleksiak** (Poland) said that the National Ministry of Education had designed a teaching module to introduce international humanitarian law to students. Turning to the question of budget allocations for implementing and disseminating the Optional Protocol, she explained that funding was for specific projects and that the State party did not have accurate statistics on that question. She added that no military school in Poland admitted minors.

39. **Mr. Pollar** (Country Rapporteur for the Optional Protocol on the involvement of children in armed conflict) asked whether a non-governmental organization wanting to help disseminate the Optional Protocol could receive funding for that purpose.

40. **Ms. Skórka** (Poland) said that civil society organizations could participate in the tendering process and receive funding from the State party, subject to project approval.

41. **Ms. Oleksiak** (Poland) said that military schools were higher-education institutions exclusively reserved for adults and that no child under the age of 18 years could be enrolled.

42. With respect to arms exports, Poland complied with international obligations. It had introduced a monitoring mechanism to identify final recipients.

43. **Mr. Sadoś** (Poland) said that identification and care of child refugees who were alleged victims of armed conflict were mainly the responsibility of the Office for Foreigners acting in accordance with the Act on Foreigners. The provisions of the act were a continuation of those of international instruments on refugee rights and complied with the commitments made at the European level within the framework of the Schengen Agreement. In practical terms, the second phase of the process of identifying children took place in schools, since schooling was compulsory for all children resident in Polish territory. Consequently, teachers monitored children who might have been involved in armed conflict, with the assistance of specialists, who carried out further tests where necessary.

44. **Ms. Górczyńska** (Poland) said that, in accordance with the Constitution, ratified international instruments became an integral part of the domestic legal order and their provisions were directly applicable. Since parliament had adopted an act authorizing the ratification of the Convention and its two Optional Protocols, those instruments took precedence over domestic law.

45. Poland had established universal jurisdiction over offences covered by the Optional Protocol on the involvement of children in armed conflict and did not apply the principle of double jeopardy. Accordingly, the Polish Criminal Code applied to both Polish nationals and foreign nationals resident in Poland who committed offences abroad covered by international agreements ratified by Poland, regardless of the criminal legislation of the State in which the offence was committed. Under the Polish Criminal Code, any person forcing another to serve in the armed forces of a foreign country was guilty of a war crime. With respect to making forced recruitment of minors an offence, a draft amendment to the Criminal Code, which had been approved by the Council of Ministers, established that any person recruiting a minor under 18 years of age into armed forces and using them in armed conflict was guilty of a war crime and liable to a prison sentence.

46. **The Chairperson** asked if that provision also covered the recruitment of minors with a view to using them in security forces abroad.

47. **Mr. Zermatten** enquired whether the amendment in question was still at the stage of a draft approved by the Government or whether it had already been considered by parliament and would soon enter into force.

48. **Ms. Górzyńska** (Poland) said that the amendment was still in the draft stage, but that the Optional Protocol was an integral part of the Polish legal system and that its provisions could be directly invoked by courts.

49. **Mr. Citarella** asked what Polish legislation prescribed concerning the recruitment of minors with a view to making them serve in security services or paramilitary forces abroad.

50. **Mr. Kotrane** asked how a Polish judge could directly apply the Optional Protocol given that it came under criminal law and that it was therefore technically impossible for States to apply it if the domestic Criminal Code did not contain pre-established penalties for acts covered by the Protocol.

51. **Ms. Górzyńska** (Poland) said that the question of the forced recruitment of minors into security services or companies was complex and that it all depended on the status of the bodies in question. Under Polish law, even a Pole over the age of 18 years was not allowed to serve in armed forces other than the Polish armed forces. The recruitment of minors into foreign armed forces was strictly prohibited and prosecutions could be brought under Polish law since the principle of universal jurisdiction had been established.

52. **Mr. Kończyk** (Poland) said that access to small arms and particularly firearms was strictly regulated by the firearms Act, which established that only persons over the age of 18 years were entitled to possess a firearm, provided that they had made a reasoned request and undergone special psychological tests. Permits were issued by provincial police force chiefs. The number of firearm permits issued in Poland was very low.

53. **Ms. Skórka** (Poland) said that the provisions of the Optional Protocol were systematically disseminated, thanks to the cooperation of all ministries. Lessons were provided for children and young people by teachers who had themselves followed training courses developed by the teacher-training department in collaboration with specialists from various ministries. Educational materials developed by the Pedagogical and Psychological Support Centre, which worked in collaboration with schools, were available for them. The Ministry of Education also maintained an Internet site with information on the Optional Protocol, which pupils could access directly.

54. A special team had been mandated to collect data on how the provisions of the Convention and its Optional Protocols were publicized in schools in order to coordinate measures and monitor the outcomes of lessons and training courses. In general, teaching on human and children's rights was compulsory and was covered in national school curricula.

55. **Mr. Sadoś** (Poland) said that Poland had a Commissioner for the Protection of Civil Rights (Ombudsman) and an Ombudsman for Children. The latter was authorized to be a party in civil, criminal and administrative proceedings relating to children. He could follow proceedings and collect evidence in schools and all public institutions dealing with children, to which he had full access. Both Ombudsmen were independent of any other State body; they were elected by parliament for a five-year term, had their own office and their own budget to fund their activities. Since the list of those activities was long, he offered to provide it at a later date for the Committee's information. The Ombudsman for Children had to date received no complaints relating to violations covered by the Optional Protocol.

56. **Ms. Skórka** (Poland) said that the Ministry of Education was working in close cooperation not only with other ministries but also with non-governmental organizations and civil society organizations on implementing projects in schools and teacher and educator training centres in order to disseminate the provisions of the Optional Protocol.

Initial report of Poland under the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography

57. **Mr. Puras** (Country Rapporteur for the Optional Protocol on the sale of children, child prostitution and child pornography), noting the progress made by the State party and welcoming in particular its legislative efforts, said he was concerned that several ministries were working in fields related to the Optional Protocol and that no coordinating and monitoring body was directly mandated to implement the Protocol, which might lead a certain lack of coherence between the measures taken. He asked whether the State allocated special funds for child victim protection programmes and he expressed regret at the lack of information on sex tourism.

58. He regretted that the State party did not collaborate more with NGOs, whose level of expertise was very impressive.

59. He stressed that several categories of children presented a high risk of being targets of acts covered by the Protocol, namely, children whose parents had emigrated and who were alone in the country, those who received no real meals apart from those served at school, those living in an institution and particularly children from Romania, Ukraine and Bulgaria. He insisted on the need to take preventive measures.

60. Some child victims could testify in special rooms, known as “blue rooms” and have their testimony filmed, which was a significant step forward. According to NGOs, however, there were still too few “blue rooms” and people trained to take statements in a child-friendly way, particularly in areas away from large towns. The number of victim reception centres should also be increased.

61. Finally, he asked what the State party had done to ratify the Council of Europe Convention on Action against Trafficking in Human Beings and the Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse.

62. **Ms. Maurás Pérez** would like to know whether the large number of activities mentioned in chapter V of the report were part of a larger programme and asked the delegation what impact they had had. She regretted that the statistics were not clear enough to show the extent of any improvement.

63. She enquired whether pupils had sex-education lessons and whether teachers were sensitized to the issue of trafficking in human beings, the sale of children and the sexual exploitation of children. Were there special courses on those issues in technical or higher education? Further information would also be welcome concerning the Daphne III programme (2007–2013) and the Commissioner for the Protection of Civil Rights. Did the latter have a preventive role?

64. She was surprised to read that the State party had reported no cases of the sale of a child or of child prostitution given that such cases were not unusual in countries with a large Roma population. The State party might perhaps explain how it had managed to prevent such cases from occurring.

65. **Ms. Aidoo** paid tribute to the role Poland had played historically in promoting child rights in the international arena. She drew the delegation’s attention to the fact that the sale of children was addressed in the report and the written replies by the State party only in the context of trafficking. She understood that the sale of children as defined in article 3 of the Protocol was not really included in Polish law and that the latest reforms were clearly inspired more by the Palermo Protocol. Although the State party had ratified the Palermo Protocol in 2003, it had subsequently ratified the Protocol to the Convention in 2005 and should therefore give effect to it.

66. She noted the initiatives to raise awareness of trafficking but would like further information on the measures taken to disseminate the Protocol throughout the country, particularly to vulnerable children, primarily Roma children.

67. **Mr. Koompraphant** asked how cases covered by the Protocol were detected in the State party. Was it simply a question of waiting for complaints to be lodged or had a monitoring system been set up? Was there a child-protection service, and, if so, to what extent did it cooperate with the police and prosecution services? It would be useful if the delegation could also give details of measures taken to cooperate with countries of origin and transit countries in preventing trafficking.

68. **Mr. Kotrane** welcomed the State party's ratification of the ILO Convention concerning the worst forms of child labour (Convention No. 182) and the Hague Convention on Protection of Children and Cooperation in respect of Intercountry Adoption. He urged the State party also to ratify the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.

69. He was concerned that the report seemed to suggest that not all the definitions mentioned in the Protocol had been incorporated into domestic law, which raised the question of how perpetrators could be convicted. He understood that in Polish law forced child labour was prohibited by labour law but was not penalized as constituting the sale of children. According to paragraph 6 of the report, the offences of paedophilia and child pornography had been incorporated into legislation but only in cases concerning children under the age of 15 years. Did that mean that such acts were permitted if they concerned children aged between 15 and 18 years?

70. Lastly, there was the question of whether prosecutions could be brought against legal persons or whether only natural persons could be prosecuted for offences covered by the Protocol.

71. **Mr. Citarella** observed that the Protocol stated very clearly the obligation to make the sale of children a criminal offence, distinct from the offence of trafficking in human beings. He also found it offensive that child pornography was allowed if the victims were aged between 15 and 17 years and the material was for strictly personal use.

72. **Mr. Zermatten** enquired whether the State party had adopted an act to protect child victims and witnesses, making it compulsory for them to be interviewed in "blue rooms" and what remedies were established for child victims. Finally, he would welcome the delegation's comments on national adoption procedures allowing parents to choose their child's adoptive family. Didn't that amount to an open door for the sale of children?

The meeting rose at 1.00 p.m.