



Distr.

GENERAL

## Convention on the Rights of the Child

CRC/C/OPAC/TUN/Q/1/Add.1

17 December 2008

ENGLISHOriginal: FRENCH

COMMITTEE ON THE RIGHTS OF THE CHILD Fiftieth session 12-30 January 2009

**WRITTEN REPLIES BY THE GOVERNMENT OF TUNISIA TO THE LIST OF ISSUES (CRC/C/OPAC/TUN/Q/1) TO BE TAKEN UP IN CONNECTION WITH THE CONSIDERATION OF THE INITIAL REPORT OF TUNISIA SUBMITTED 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 (CRC/C/OPAC/TUN/1)\***

[Replies received on 4 December 2008]

**1. Please inform the Committee about whether the State party has legislation criminalizing the recruitment and involvement of children in hostilities that are contrary to the Optional Protocol.**

1. It is not a specific offence under Tunisian law to recruit children in armed conflict, but this does not mean that it is possible to involve them in armed conflict. In fact, Tunisian legislation provides for an absolute ban on the enlistment of children in the armed forces. There are no exceptions to this ban, which is rooted in article 18 of the Child Protection Code, prohibiting the participation of children in wars and armed conflict, and in article 2 of the Act of 14 January 2004 on national service, setting the minimum age for military service at 18.

2. The reason for not criminalizing the recruitment of children in armed conflict is to be found in the principles that govern criminal policymaking in Tunisia. The Tunisian lawmakers consider that criminalization should be considered only in exceptional circumstances and as a last resort when it would be difficult or futile to deal with a problem under ordinary law.

3. In accordance with this principle, the lawmakers consider that the socio-political context in Tunisia does not require the criminalization of the involvement of children in armed conflict and that a formal ban is sufficient to reach the desired objective, namely, the protection of children from enlistment in the armed forces.

4. The circumstances that led the lawmakers to consider a ban sufficient, rather than criminalize the act, can be summarized as follows:

(a) The use of armed force has been reserved for the national army since the decree of 30 June 1956 on the establishment of the Tunisian army. Consequently, no group or militia is authorized to organize itself and carry weapons in Tunisia. As recruitment to the army is the exclusive responsibility of the national army, it is the army administration that ensures that no person under the age of 18 is recruited. This therefore rules out any possibility of children becoming involved in the armed forces, since it is the national army itself that ensures compliance with the legal requirements for recruitment, including the minimum age requirement;

(b) Tunisia is a peace-loving country that has not been engaged in armed conflict since the fight for independence. This explains why the recruitment of children into the army is not a problem in today's Tunisia.

5. Clearly, therefore, in the Tunisian context there is no need to criminalize the involvement of children in armed conflict, and this is why the lawmakers deemed a formal ban to be sufficient.

**2. Please inform the Committee of any measures taken by the State party to verify the age of volunteers.**

6. Under article 2 of the Act of 14 January 2004 on national service, no person is permitted to perform their national service before the age of 18. The age of volunteers is checked against their birth certificate, the only official document accepted as proof of a person's exact date of birth.

7. It should be noted that Tunisian lawmakers regulated civil status with the Act of 1 August 1957, which requires a person present at a birth to declare the birth within 10 days to the registrar, or face a penalty of 6 months' imprisonment. The birth certificate is drawn up immediately and must give the day and time of the birth, among other things. Civil registers are kept by government departments, in this instance by registrars under the supervision of the judiciary, as the registers must be initialled on every page by a judge.

8. The detailed regulations on civil registration guarantee that a person's age can be carefully checked before they are accepted for

military service. There is therefore no possibility that any person in Tunisia can perform their military service before reaching the age of 18.

**3. Please provide detailed information as to whether the State party assumes extraterritorial jurisdiction over the war crime of conscripting or enlisting children under the age of 15 into the armed forces, or using them to participate actively in hostilities. Also in relation to extraterritorial jurisdiction, please indicate whether Tunisian courts have jurisdiction in cases of forced recruitment or involvement in hostilities of a person under 18 if committed outside Tunisia, by or against a Tunisian.**

9. In reply to the first part of this question, it should be emphasized that Tunisian law does not recognize universal jurisdiction of Tunisian courts over the war crime of enlisting children under the age of 15 in armed conflict.

10. With regard to the second part of the question, pursuant to articles 305 and 307 bis of the Code of Criminal Procedure, Tunisian courts have jurisdiction to prosecute and try offences committed abroad by or against a Tunisian.

**4. Please provide disaggregated data (including by sex, age and country of origin) covering the years 2005, 2006 and 2007 on the number of asylum-seeking and migrant children entering Tunisia from areas where they may have been recruited or used in hostilities. Furthermore, please also provide information on measures adopted with regard to the physical and psychological recovery and social reintegration of these children.**

11. Tunisia has no record of any application for asylum from a child fleeing recruitment or enlistment in an armed conflict.

**5. Please inform the Committee of any measure taken to prevent the enrolment of children in terrorist groups, including those operating in neighbouring countries.**

12. The Tunisian authorities are aware that terrorist groups will stop at nothing to spread terror and would not hesitate to take advantage of children's innocence to involve them in their schemes.

13. Several measures - some of a legal and others of an educational nature - have been taken to protect children from being recruited to terrorist groups.

14. In the first place, Tunisian lawmakers have made involving a child in a terrorist scheme an aggravating factor that prevents the perpetrator of such an act from claiming attenuating circumstances. Thus, article 30 of the Act of 10 December 2003 on international efforts to combat terrorism and prevent money-laundering stipulates that "the maximum penalty is incurred if the [terrorist] offence is committed using a child".

15. Under this provision, the following penalties are incurred if children are used in the commission of terrorist offences:

(a) Anyone inciting children to commit terrorist offences, or to join an organization or group connected with terrorist offences, shall be punished with 12 years' imprisonment and a fine of 20,000 dinars (article 12 of the Act of 10 December 2003 mentioned above);

(b) Anyone using the territory of the Republic to recruit or train children with a view to committing a terrorist act inside or outside the territory of the Republic shall be punished with 12 years' imprisonment and a fine of 50,000 dinars (Act of 10 December 2003, art. 14);

(c) Anyone who supplies children with arms, explosives, munitions or other similar substances, materials or equipment with a view to committing terrorist offences shall be punished with 20 years' imprisonment and a fine of 50,000 dinars (Act of 10 December 2003, art. 16).

16. These provisions also apply to terrorist groups operating outside Tunisian territory if the offences are committed by a Tunisian citizen or by a person normally resident in Tunisia or present in the country, if the victim is of Tunisian nationality, or if Tunisian interests are targeted by the perpetrators of the offence (Act of 10 December 2003, art. 55). Moreover, article 14 of the Act of 10 December 2003 explicitly states that it is applicable to everyone using the territory of the Republic to recruit individuals with a view to committing terrorist offences. It therefore covers terrorist groups operating in neighbouring States who might try to use Tunisia as a base from which to recruit children and involve them in terrorist schemes.

17. In addition, Tunisia sets great store by education as a means of transmitting the values of tolerance and rejection of all forms of violence. The two legal provisions mentioned below illustrate the efforts of Tunisian lawmakers in this respect.

18. Article 1 of the Child Protection Code states that its aim is to raise children "to be proud of their national identity ... while being immersed in a culture of human fraternity and openness to others" and to prepare them for "a free and responsible life in a united civil society based on the inseparability of awareness of rights and respect for duties, where the prevailing values are fairness, tolerance and moderation".

19. Thus, by emphasizing the values of openness, tolerance and moderation, the Child Protection Code shows that Tunisia's efforts to protect children from fanaticism and terrorism start at the grass-roots level, targeting the young generation with a view to instilling values of openness in people's minds. The Tunisian lawmakers' vision is therefore a long-term vision, and the sole guarantor of the establishment of a culture of peace in children's minds.

20. Tunisia believes that education is the most effective means to establish the values of tolerance and rejection of all forms of hatred and fanaticism in society. This objective is clearly reflected in the Act of 23 July 2002 on the general principles of education and schooling, article 1 of which states that “education is a top national priority and schooling is obligatory between the ages of 6 and 16. Education is a fundamental right guaranteed to all Tunisians without discrimination on grounds of sex, social origin, colour or religion”.

21. Article 3 of the same law adds that “the aim of education is to instil all the values shared by Tunisians and based on the primacy of knowledge, work, solidarity, tolerance and moderation. It is the guarantor of the establishment of a society that is deeply attached to its cultural identity, open to modernity and inspired by humanist ideals and the universal principles of freedom, democracy, social justice and human rights”.

22. The Tunisian education system transmits a message of non-discrimination, freedom and peace, and is therefore another means of preventing hatred and fanaticism.

23. These efforts are supported by intensive work on the ground to maintain a dialogue with young people so as to make them aware of the risks of terrorist indoctrination. In this context, 2008 was declared the year of dialogue with young people. A number of meetings, forums and discussions were held at both local and national level, thereby creating space for dialogue and allowing young people to express their concerns and ambitions. These forums for dialogue enabled young people to formulate their ideas in the “Tunisian Youth Pact”, which summarizes their aspirations and demands. It is worth noting that the young people stressed, in the Pact, their rejection of “extremism, fanaticism and terrorism”, showing that they are fully aware of the terrorist threat and that they are committed to defending the values of “peace, goodness, solidarity and mutual assistance among people”.

24. The Tunisian authorities remain vigilant and are taking every possible step to protect children and young people from the scourge of terrorism. Providing schooling for all (99 per cent in 2007), focusing development efforts on disadvantaged regions and establishing mechanisms to help young people find jobs are the main focus of efforts to protect Tunisian youth from terrorist influences.

**6. Please provide further information on existing bilateral or multilateral programmes of technical cooperation and financial assistance entered into by the State party to provide assistance in the implementation of the Optional Protocol.**

25. Tunisia is not involved in any technical or financial cooperation programme providing assistance in the implementation of the Optional Protocol.

**7. Please inform the Committee whether national legislation prohibits the sale of arms when the final destination is a country where children are known to be, or may potentially be, recruited or used in hostilities.**

26. As a country that advocates peace and security in the world, Tunisia neither manufactures nor exports weapons of any type. Consequently, the question of prohibiting the export of arms to countries where children are used in hostilities does not arise in the case of Tunisia.

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