



# Convention on the Rights of the Child

Distr.: General  
13 October 2016  
English  
Original: French  
English, French and Spanish only

## Committee on the Rights of the Child

### Consideration of reports submitted by States parties under article 8 (1) of the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict

#### Reports of States parties due in 2016

#### Guinea\* \*\*

[Date received: 8 April 2016]

\* The present document is being issued without formal editing.

\*\* The annexes to the present document may be consulted in the files of the secretariat. They may also be accessed on the web page of the Committee on the Rights of the Child.

GE.16-17672 (E) 301116 021216



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## I. Introduction

1. The situation of children around the world remains of great concern despite the ratification of the Convention on the Rights of the Child by almost all States members of the United Nations. This clear commitment to the universal promotion and protection of the rights of the child has run up against major stumbling blocks with the proliferation of political and military crises all over the world.

2. In 1994, the United Nations Human Rights Commission set up a working group to draft an Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict. The working group did eventually produce the Optional Protocol, which was adopted and opened for signature, ratification and accession by the United Nations General Assembly on 25 May 2000. It entered into force on 12 February 2002.

3. In addition to this Optional Protocol, there are other international legal instruments that help protect children, such as the International Labour Organization (ILO) Worst Forms of Child Labour Convention, 1999 (No. 182), and the Rome Statute of the International Criminal Court.

4. The basic objective of this Optional Protocol is to strengthen the protection of children by increasing the minimum age for recruitment into the armed forces from 15 years, as established under article 38 (3) of the Convention on the Rights of the Child, to 18.

5. Guinea, honouring its international commitments, ratified and promulgated this Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict with Act No. L/2001/020/AN of 10 December 2001, which entered into force on 5 August 2011.

6. Guinea is a haven in West Africa. It is a stable country by comparison with its neighbours, which have experienced internal armed conflicts. The age of recruitment into the Guinean armed forces is set, for all citizens aged between 18 and 28 years of age, in accordance with the provisions of article 39 of Act No. 001/CNT/2012, the General Military Personnel Regulations Act.

7. According to article 8 (1) of the Optional Protocol, States parties are to submit, within two years following its entry into force, a report to the Committee on the Rights of the Child providing comprehensive information on the measures they have taken to implement the provisions of the Protocol and on the progress made in the enjoyment of the rights recognized therein. In order to enable States parties to the Optional Protocol to produce their reports, the Committee adopted guidelines at its 736th meeting, held on 3 October 2001. Then, to assist States parties that had not yet submitted their initial report, the guidelines were revised in 2007.

8. The present report, prepared in accordance with the Committee on the Rights of the Child's revised guidelines regarding initial reports to be submitted by States parties to the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict, is structured as follows:

- (a) General measures of implementation;
- (b) Prevention of the recruitment and use of children in hostilities;
- (c) Prohibition and related matters;
- (d) Protection, recovery and reintegration of child victims;
- (e) International assistance and cooperation;

- (f) Other legal provisions;
- (g) Domestic or international law.

## **II. General measures of implementation**

### **1. Drafting of the report**

9. The Guinean Committee on the Protection of Children's Rights, an advisory body to the Ministry of Social Action, the Advancement of Women and Children's Affairs, is responsible for, among other things, the drafting of reports on the implementation of the conventions and international, regional and national treaties regarding children's rights to which Guinea is a party.

10. Accordingly, this Committee prepared and submitted the initial report, the second report and updated written replies of Guinea on the implementation of the United Nations Convention on the Rights of the Child, and the initial report on the implementation of the African Charter on the Rights and Welfare of the Child. It also prepared the present initial report on the implementation of the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict.

11. The Committee received technical and financial support from the Office of the United Nations High Commissioner for Human Rights in Guinea for the preparation of this report. Thanks to this partnership between the Ministry of Social Action, the Advancement of Women and Children's Affairs and the Office of the High Commissioner for Human Rights, the Guinean Committee on the Protection of Children's Rights was able to fulfil its reporting obligations to the Committee on the Rights of the Child on the implementation of this Optional Protocol in Guinea.

12. A mini-seminar on consideration of the Optional Protocol and reporting guidelines brought together members of the Guinean Committee on the Protection of Children's Rights and other resource persons with a view to ensuring that the report was prepared jointly.

13. After this first seminar, questionnaires were prepared in accordance with the Committee on the Rights of the Child's revised guidelines regarding the initial reports of States parties to the Optional Protocol. These questionnaires were sent to all actors likely to have information about the relevant area. The drafting process consisted of a review of documentation and analysis of information and data by members of the Guinean Committee on the Protection of Children's Rights.

14. The final phase brought together all the state and non-state actors involved for a workshop held to approve the report submitted by Guinea. All comments and amendments made at this workshop were taken into account.

### **2. Status of the Optional Protocol in domestic law**

15. Article 151 of the Guinean Constitution states: "On publication, duly approved and ratified treaties and agreements shall take precedence over statutes, subject to reciprocity."

16. In practice, since the Optional Protocol is in force in Guinea, it may be invoked by any citizen before the country's courts. To facilitate its implementation, the Optional Protocol was incorporated into domestic law with the adoption of the Guinean Children's Code in 2008.

**3. According to article 1 of the Guinean Constitution, Guinea is a unitary, indivisible, secular, democratic and social republic.**

17. Therefore, once the Optional Protocol has been ratified, it is applicable throughout the country and to all entities subject to Guinean jurisdiction, with no exceptions.

**4. Guinea ratified the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict without reservations.**

**5. Guinea did not make the binding declaration under article 3 of the Optional Protocol, as the minimum age for recruitment into its national armed forces has always been 18. It should be noted that a binding declaration duly signed by the competent authority will accompany this report, to complete the ratification process.**

**6. Governmental departments or bodies with primary responsibility for the implementation of the Optional Protocol and coordination mechanisms**

18. The Ministry of Defence, the High Command of the National Gendarmerie and the Directorate of Military Justice, the Office of the Director-General of the National Police, the Ministry of Human Rights and Public Liberties, the Ministry of Justice and the Ministry of Social Action, the Advancement of Women and Children's Affairs are the main public institutions dealing with the implementation of the Optional Protocol.

19. The Guinean Committee on the Protection of Children's Rights, under the authority of the Ministry of Social Action, is the national body that coordinates the mechanisms and strategies for monitoring children's rights and strengthening the Guinean system of child protection. To do so, the Committee cooperates closely with the aforementioned public institutions for the promotion and protection of the rights of the child.

**7. Dissemination of the Optional Protocol**

20. The Optional Protocol was widely distributed in its original form, especially in 2002, through the organization of regional workshops for key actors involved in child protection and the media. In addition, since its incorporation into national law, namely the Constitution, the Children's Code and the General Military Personnel Regulations, the main provisions of the Optional Protocol have been disseminated widely and are used in the training of criminal investigation officers, court officials, social workers, members of the defence and security forces and members of various other agencies.

21. Since 1992, radio and television discussions on the Optional Protocol have been held and informational posters have been displayed every year in June (Guinean children's month), a period generally devoted to advocacy and social mobilization in favour of the promotion and protection of children's rights.

22. Modules on children's rights, including the provisions of the Convention and its Optional Protocols, are currently being developed for inclusion in the initial training courses of the schools of the defence and security forces. These training modules take a comprehensive approach to child protection before, during and after armed conflict.

**8. Progress made in implementing the Optional Protocol and shortcomings or challenges**

23. The progress made includes the incorporation of the provisions of the Optional Protocol in Guinean law; the establishment of a unit for the advancement and protection of children in the Guinean armed forces; the establishment of a protection division under the High Command of the National Gendarmerie; the establishment of a military justice directorate, also under the High Command; and the adoption of a new national strategy for reform of the justice system.

24. There have been no particular operational complications in the implementation of the Optional Protocol.

**(a)**

25. Since it was established in 1960, the Guinean army has not faced any situations causing it to recruit volunteers less than 18 years of age. However, recruitment is open to Guinean nationals of both sexes, without discrimination, between the ages of 18 and 28, in accordance with article 39 of the General Military Personnel Regulations Act.

**(b)**

26. Guinea has never experienced armed conflict involving armed groups, with the exception of the rebel incursions of 2001 on the country's south-eastern borders (Liberia, Sierra Leone), which led to the participation of 9,000 young volunteers in the defence of their respective localities. With funding from the United Nations Children's Fund (UNICEF) and the German Agency for International Cooperation (GIZ), the Ministry of Social Action initiated a project for the demobilization and socio-professional reintegration of these young people into various occupations. The project involved only 250 children. It may be recalled that these brief rebel incursions did not lead to the recruitment of any Guinean children by these armed groups.

27. The 1,600 demobilized recruits from Kaléya (2009) were offered vocational training and rehabilitation by the Ministry of Youth and Youth Employment, with financing from the United Nations Peacebuilding Fund.

**(c)**

28. See under item **(b)**.

**(d)**

29. According to information received, between 2000 and 2002 (the rebel incursions into Guinea having taken place in September 2001), the Office of the United Nations High Commissioner for Refugees, at the time, in concert with the authorities and partners, had to deal with cases of children who had been victims of practices prohibited under the Optional Protocol in refugee camps in Guinée forestière.

**9. Existence of an independent national human rights institution**

30. The Guinean Constitution, in title XVI, articles 146 and 147, provides for the establishment of an independent national human rights institution, responsible for the promotion and protection of human rights. No member of the Government or of the National Assembly and no other natural or legal person, public or private, may prevent it from carrying out its activities. The State must grant it whatever assistance it needs to operate and maintain its independence and integrity.

31. Technical and financial partners (including the Office of the United Nations High Commissioner for Human Rights, the United Nations Development Programme and the European Union) are currently providing support to the new National Assembly, the Government and civil society organizations for the establishment and operation of this institution.

32. Pending its definitive establishment, the main organizations dealing with the defence of human rights in Guinea include the Organisation guinéenne de défense des droits de l'homme/International Federation for Human Rights Leagues, the Office for the Coordination of Human Rights Organizations, the coalition of NGOs working for the

promotion and protection of children's rights and combating child trafficking, the National Coalition for Women's Rights and Citizenship, the Ligue guinéenne des droits de l'homme, Avocats sans frontières, the Media Alliance for Human Rights, the National Human Rights Observatory and the Association des victimes, parents et amis du 28 septembre.

#### **10. Analysis of factors and difficulties affecting the implementation of the Optional Protocol**

33. It should be recalled that the minimum age for recruitment into the Guinean armed forces is 18 years. Furthermore, because the country enjoys relative social stability, has no child victims of armed conflict on its soil and has established mechanisms for processing asylum and refugee applications, at the operational level, no particular difficulties have been encountered in the implementation of the Optional Protocol.

34. Several administrative, legislative, judicial and regulatory texts ensure that the country remains at the forefront in terms of the implementation of the Optional Protocol.

### **III. Prevention (arts. 1, 2, 4 (2) and 6 (2))**

#### **11. Legislative, administrative or other measures to prevent compulsory recruitment and direct participation in hostilities**

35. Under articles 429 and 430 of Act No. L/2008/011/AN/2008 of 18 August 2008 on the Guinean Children's Code, the recruitment of any person under the age of 18 into armed forces or groups is prohibited and punishable, as is their direct involvement in armed conflicts.

36. In addition, on 17 January 2012, Act No. 001/CNT/2012 on the General Military Personnel Regulations was promulgated by the President of the Republic. Under article 39 of this Act, 18 is the minimum age of recruitment of young people into the armed forces. Act No. L/2013/01044/CNT on the Special Regulations of the Police Force, has an analogous provision.

##### **(a)**

37. Chapter I of the General Military Personnel Regulations defines the recruitment process for the Guinean armed forces as follows:

##### Article 39

Any Guinean national aged 18 years or more may be recruited by the Guinean armed forces.

##### Article 40

No person may join the military unless he/she:

- Has Guinean nationality;
- Is in full possession of his/her civil rights;
- Has the physical and intellectual capacities required for the performance of the duties involved;
- Knows how to read and write.

##### Article 41

The army relies on voluntary recruitment. However, in the event of a serious threat to the integrity of the national territory, the army may, exceptionally turn to

general conscription. The methods of conscription shall be defined by decree of the President of the Republic.

Article 42

In the Guinean army, national recruitment takes place annually in accordance with the personnel needs of the armed forces and services and budget estimates.

For specialized personnel, general staffs and services are free to select the staff they require, who will be sent before the National Recruitment Commission.

Article 43

All recruits are enlisted with a contract for an initial two-year period of service and are sent to infantry training centres for nine months of basic training before joining the various armed forces and services.

Article 44

Six months before the initial contract expires, recruits are brought before the national reform commission, which shall decide on the admissibility of their enlistment application.

The selected candidates then appear before the National Recruitment Commission for registration.

The recruitment procedure in the officer and non-commissioned officer corps is covered in special regulations.

**(b)**

38. The following documents are admitted for verifying the age of recruits before their entry to military service:

- A duly legalized birth certificate;
- A legalized copy of diplomas;
- A residence certificate;
- Copy of a criminal record dated at least three months earlier;
- Four passport photographs.

**(c)**

39. There is no law that authorizes the lowering of the age of conscription in exceptional circumstances.

**(d)**

40. Military service is not compulsory in Guinea. However, until the mid-1980s, military service (two months) was compulsory for graduating students.

**12. Minimum safeguards ensuring that recruitment is voluntary**

**(a)**

41. The safeguards introduced to ensure that enlistment is genuinely voluntary, as well as the procedure to be followed, are set out in Act No. 001/CNT/2012 on the General Military Personnel Regulations.



**(b)**

42. Volunteers must undergo the following medical examinations prior to enlisting in the Guinean armed forces, in line with international standards:

- Physical examination (upper and lower limbs, hearing and mental condition);
- Biological examination: urine test (sugar, albumin), blood test (Bordet-Wassermann reaction for syphilis, hepatitis B surface antibody, retroviral serology, diabetes);
- HIV/AIDS test.

**(c)**

43. See reply under **11 (b)**.

**(d)**

44. The minimum period of service depends on the category of personnel recruited. Early discharge may occur if an enlisted staff member fails to abide by the General Regulations.

45. The minimum and maximum penalties applied in the event of desertion are laid down in section III (entitled desertion), articles 121 and 127, of the Code of Military Justice, whereby:

The following persons shall be considered internal deserters in peacetime:

- Any member of the military who is absent without leave from his/her unit or detachment, base or training camp, barracks or military or civilian hospital where he/she was receiving treatment or who escapes from a prison where he/she was being held. Desertion is ascertained after an observed absence of seven days.
- Any member of the military travelling alone whose mission or leave of absence has expired and who fails to report to the gendarmerie, to a unit or detachment at his/her base or training camp or to his/her barracks.

In this case, desertion is ascertained 15 days after the date set for his/her arrival or return.

Any member of the military who has not completed three months of service shall be considered a deserter only after an absence of 30 days.

In times of armed conflict, the above deadlines shall be reduced by two thirds.

Any member of the military found guilty of desertion abroad in peacetime is punishable, as appropriate:

- Before the disciplinary board;
- Before the court martial. In this case, the penalty shall not exceed six months.

If the deserter is an officer, he/she may be sentenced to 2 years' imprisonment.

46. It may be noted that desertion in this case cannot involve children, as 18 is the minimum age of recruitment.

47. At present, no recruits are being prosecuted in the Guinean armed forces.

48. The principles mentioned above apply only to recruits of 18 years of age or more.

(e)

49. Details of the duties involved in military service are given in articles 16 to 18 of Act No. 001/CNT/2012 on the General Military Personnel Regulations. In addition, a whole chapter of the Code of Conduct for members of the defence and security forces of 28 November 2012 is devoted to the official duties of military personnel.

(f)

50. The incentives that the Guinean armed forces must offer volunteers are currently being developed by the Human Resources Department of the General Staff of the Armed Forces and will concern only recruits aged 18 and over.

**13. Article 3 (5) of the Optional Protocol**

51. There are no military academies in Guinea operating under the authority of the Ministry of Defence and providing military training to children under the age of 18. Every year, however, the country selects a number of primary-school graduates aged 12 to 13, who continue their education in the military schools for young persons of neighbouring countries (Mali, Côte d'Ivoire, Senegal and Niger) until they pass the baccalaureate and return to Guinea to pursue higher education.

(a)

52. The minimum age of admission to the training centres and military schools under the control of the Guinean armed forces is 18.

(b)

53. Not applicable.

(c)

54. The armed forces do not currently have or run any general-education schools. The training centres and military schools under the control of the Guinean armed forces do not admit anyone under the age of 18. These centres offer special curricula that include international humanitarian law and human rights.

55. The Office of the United Nations High Commissioner for Human Rights (OHCHR) in Guinea organized training sessions on human rights and peacekeeping operations for 150 officers of the Special Forces Battalion pending their deployment for peacekeeping missions in Kindia in February 2013. In 2014, it organized similar training for 211 non-commissioned officers and officers of the Gangan Battalion before a peacekeeping operation in Mali. OHCHR also organized human rights training for more than 200 criminal investigation officers in Conakry, Kindia, Kankan, Labé and Nzérékoré from April to July 2013.

56. Training modules on human rights developed by OHCHR are currently being approved for inclusion in the curricula for the initial training of members of the defence and security forces (police academies, gendarmerie schools and military academies and training centres).

(d)

57. Not applicable.

(e)

58. Not applicable.

**14. Recruitment of children by armed forces other than those of the State**

(a)

59. Guinea has never had to deal with conflicts leading either to the formation of armed groups in its territory or, much less, to the incursion of such groups from other countries.

(b)

60. See reply under **14 (a)**.

(c)

61. See reply under **14 (a)**.

(d)

62. See reply under **14 (a)**.

(e)

63. In 2000 and 2001, at the time of the rebel attacks on the country's southern and south-eastern borders, the International Committee of the Red Cross fulfilled its establishment mandate as agreed with the Government of Guinea. At present, the International Committee of the Red Cross is taking measures to raise awareness among military authorities, and within the units of the country's defence and security forces, of international human rights rules and principles, including the prohibition on recruiting anyone less than 18 years of age. International human rights law is currently taught in all the initial training institutions of the defence and security forces.

**15. Methods used to identify children who, as a result of their economic and social status, are especially vulnerable to practices contrary to the Optional Protocol**

64. In terms of legislation, articles 430 to 439 of the Children's Code include provisions to protect refugee children, children affected by armed conflict, separated children, children in conflict with the law as a result of armed conflict and any other child victims of violations of their physical and mental integrity in time of armed conflict. Under the Code, the relevant Guinean authorities are required to provide assistance to humanitarian organizations responsible for protecting and assisting children.

65. On the ground, the child protection system in Guinea includes mechanisms — from the sub-prefecture level to the central level — to identify and bring vulnerable children under the community's protection and to ensure that they are admitted in vocational training centres and traineeships in various trades, especially young girls in female empowerment facilities (such as dressmaking, hairdressing, mechanics, masonry, etc.).

**16. Information on measures taken to prevent attacks on civilian objects protected under international humanitarian law and other international instruments, including places that generally have a significant presence of children, such as schools and hospitals**

66. The civilian objects protected under international humanitarian law and other instruments are listed in all human rights training programmes in the Guinean armed forces. Awareness is raised among military personnel, who are trained in this regard at all levels of instruction, in accordance with the Soldier's Handbook.

67. The Government has not taken specific measures to mark protected objects with distinctive signs. However, some places that have a significant presence of children (such as schools, churches or hospitals) are protected by civil defence emblems.

**17. Campaigns or other measures taken to promote public awareness of the principles and provisions of the Optional Protocol**

**(a)**

68. Despite the absence of armed conflict in the country, Guinea and its partners have always developed teaching courses for children and young people on the Convention on the Rights of the Child, the Children's Code, the African Charter on the Rights and Welfare of the Child and the agreements and conventions to which Guinea is a party and which refer to the provisions of the Optional Protocol.

69. The establishment of children's institutions since 2001 (such as the Children's Parliament of Guinea, the Children and Young People's Advisory Council, the Convention Club and Children's Government), which carry out advocacy and social mobilization activities to create a protective environment for all children, in accordance with the international commitments of Guinea. These organizations were very active in peacebuilding activities and outreach campaigns on the need to protect children during the electoral campaigns in 2010 and 2013, as children are not eligible to vote or run for office.

**(b)**

70. A cross-sectoral policy dialogue has been initiated by the Ministry of Human Rights and Public Liberties, with the aim of including courses on human rights and the promotion and consolidation of peace in secondary school and higher education curricula.

**(c)**

71. Series of continuous training courses in international humanitarian law, human rights, the rights of the child and women's rights are organized by the State and its technical and financial partners in the gendarmerie and police academies and in military training centres.

**(d)**

72. NGOs, in partnership with sector-specific departments, carry out awareness-raising campaigns on the concept of peace and national unity.

73. With the liberalization of private media, several private and community radio stations have begun broadcasting programmes, advertorials and interactive discussions to raise public awareness of the possible consequences of children's involvement in social and political unrest.

74. The private sector contributes financially through its partnership with NGOs in the prevention of and fight against practices prohibited by the Optional Protocol.

75. Communities, mindful of the dangers associated with the involvement of children in armed conflict, include the promotion and protection of children's rights in their local development programmes.

76. The children themselves contribute, through the Children's Parliament of Guinea, the Children and Young People's Advisory Council, the National Coordinating Committee of the Association des Enfants et Jeunes Travailleurs — Guinée and the Children's Governments, by holding social mobilization and advocacy meetings at the community and decision-making levels.

77. Children are involved in all stages of the design of these programmes and play an active role in their implementation. This is the case with the courses offered by the NGO Sabou Guinée on the provisions of the Children’s Code, with Search for Common Ground’s peacebuilding project, funded by the United Nations Children’s Fund (UNICEF), and with Sweden’s Save the Children programme of training for the armed forces on the protection of children before, during and after armed conflict between 2005 and 2011.

(e)

78. Awareness of national and international legal texts, including the Children’s Code, the African Charter on the Rights and Welfare of the Child and the provisions of the Optional Protocol, is being raised among the armed forces, judges, social workers, teachers and lawmakers.

#### **IV. Prohibition and related matters (arts. 1, 2 and 4 (1) and (2))**

- 18. Guinean legislation, in chapter VI of the Children’s Code Act, entitled “Children in Armed Conflict, Displaced Children, Refugee Children and Separated Children”, already takes full account of articles 1, 2 and 4 of the Optional Protocol. Article 429 (1) of the Code provides that no child under the age of 18 may participate, directly or indirectly, in hostilities or be recruited into the armed forces or an armed group.**

(a)

79. According to article 429 (2) of the Children’s Code: “Conscripting or enlisting children under the age of 18 into the armed forces or an armed group or using them in hostilities shall be punished by imprisonment for a term of 2 to 5 years and a fine of 50,000 to 500,000 Guinean francs, or to one of these two penalties only.”

80. It should be noted that these three concepts have not been defined in domestic jurisprudence or legislation. However, article 429 (2) should be seen as addressing material elements of all offences and acts covered by the Optional Protocol.

(b)

81. The Children’s Code provides for the following minimum and maximum penalties:

- A term of imprisonment of 2 to 5 years and a fine of 50,000 to 500,000 Guinean francs;
- Or only one of these two penalties.

82. Public- and private-sector employees will be held criminally liable, with aggravating circumstances, if found guilty of acts violating the physical and mental integrity of children.

(c)

83. As there have been no perpetrators, no such offence has come before the country’s courts.

(d)

84. Chapter II (“Obligations and Responsibilities”), article 16, of the General Military Personnel Regulations Act reads as follows:

Military personnel must obey the orders of their superior officers and are responsible for executing the missions entrusted to them. However, they may not be ordered to

perform and may not perform acts that are contrary to the law, the customs of war or international conventions. The personal responsibility of subordinates does not relieve superiors of any of their responsibility. However, subordinates who, as a result of a mistaken appreciation, refuse to carry out a legal order from their superiors are liable to the statutory punishment.

In addition, article 11 of the Code of Conduct for members of the military states: “In the exercise of command, no order may be given or carried out that runs counter to domestic law, international humanitarian law or human rights. No exceptional circumstances or emergency may justify human rights violations.”

85. Article 28 of the Code states that “military personnel, in particular commanding officers, shall be held responsible for violations of human rights and international humanitarian law committed in carrying out illegal orders”.

**(e)**

*The statute of limitations for each of these offences*

86. Conscripting or enlisting children under the age of 18 into the armed forces or using them in hostilities is an offence under article 429 (2) of the Guinean Children’s Code.

87. Pursuant to article 4 of the Code of Criminal Procedure of 1998, less serious offences are subject to a statute of limitations of three years, which applies in accordance with the specifications laid down in article 3 of the Code of Criminal Procedure. In particular, if, during this three-year period, investigative or other steps are initiated, prosecution will not be limited by statute until three years after the last such step.

88. If the victim is a minor and the crime was committed by a legitimate, natural or adoptive ascendant relative, or by a person with authority over the victim, the period of prescription is extended or renewed for the same length of time when the victim reaches the age of majority.

**(f)**

89. Any other offences recognized by the laws of the State party that it considers relevant to implementation of the Optional Protocol.

**(g)**

90. Article 429 (3) of the Children’s Code addresses these issues in the following terms: “Public- and private-sector employees will be held criminally liable, with aggravating circumstances, if found guilty of acts violating the physical and mental integrity of children.” Articles 3 and 54 of the Criminal Code read as follows:

An attempted offence constitutes an initial act which, even if thwarted by an unrelated cause, is deemed to establish the unjust aim pursued.

Any attempt is always punishable if considered a serious criminal offence. It is not punishable as a less serious offence except where provided for by an express provision of law.

...

The following shall be punished as accomplices to an act defined as a serious or less serious offence:

- Anyone who, by gift, promise, abuse of authority or power, manipulation or deception, causes such an act to be perpetrated or gives instructions to have it perpetrated;
- Anyone who supplies arms, instruments or any other means used in the act in the knowledge that they will be used for that purpose;
- Anyone who knowingly aids or abets the perpetrator or perpetrators of the act in actions that prepare for, facilitate or complete the act, without prejudice to the any penalties set out in special provisions;
- Anyone who, while aware of the criminal conduct of offenders engaging in robbery or violence against the security of the State or in breach of the peace or against individuals or property, habitually provides such persons with accommodation, shelter or a meeting place.

**19. Criminal legislation in force covering and defining the acts enumerated in article 4 (1) and (2) of the Optional Protocol**

91. In Guinea, there are no armed groups distinct from the armed forces of the State, while article 429 of the Children's Code Act takes into account the acts enumerated in article 4 (1) and (2) of the Optional Protocol.

**(a)**

92. Chapter VI, article 429 (2) of the Children's Code states: "Conscripting or enlisting children under the age of 18 into the armed forces or an armed group or using them in hostilities shall be punished by imprisonment for a term of 2 to 5 years and a fine of 50,000 to 500,000 Guinean francs, or to one of these two penalties only."

**(b)**

93. There are no provisions on transitional justice in Guinea. However, a provisional commission has been set up to deal with national reconciliation, whose work should lead to the establishment of a genuine transitional justice mechanism.

**(c)**

94. The minimum and maximum penalties for each offence are set out in article 429 (2) of the Guinean Children's Code Act.

**(d)**

95. See reply under **18 (c)**.

**(e)**

96. From a legal point of view, the Children's Code prohibits the recruitment, use and involvement of children in armed conflict. As violations of this prohibition are deemed a less serious offence, the Guinean Code of Criminal Procedure of 1998 prescribes a period of limitation of three years, with a further three years from the moment a minor reaches the age of majority.

**(f)**

97. Article 430 of the Children's Code Act covers this other form of offence: "in time of armed conflict, any act that violates the physical and mental integrity of a child shall be

punishable by a term of imprisonment of between 2 and 5 years and a fine of between 50,000 and 500,000 Guinean francs, or one of these two penalties only”.

(g)

98. Guinean law sets out the applicable penalties for attempts to commit the offences covered by the Optional Protocol.

**20. Relevant laws, decrees, military codes, manuals or regulations adopted by the national legislature**

(a)

99. The following legislation applies:

- Act No. 036/an/98 of 31 December 1998 on the Criminal Code;
- Act No. 037/an/98 of 31 December 1998 on the Code of Criminal Procedure;
- Act No. L/2008/011/AN on the Guinean Children’s Code;
- Act No. L/2000/012/AN on the Status of Refugees in the Republic of Guinea;
- Act No. 001/CNT/2012 on the General Military Personnel Regulations;
- Act No. 002/CNT/2011 on the Code of Military Justice;
- Decree No. D289/PRG/SGG/2011 on the Code of Conduct of the Defence Forces.

(b)

100. In Guinea, there is no established jurisprudence concerning the Convention on the Rights of the Child, the Optional Protocol or any other international instruments.

**21. Legislation currently in force that is considered an obstacle to the implementation of the Optional Protocol**

101. No provision of law clearly opposes the implementation of the Optional Protocol.

102. However, a review of the Criminal Code, the Code of Criminal Procedure, the Code of Military Justice and the Children’s Code has been under way since January 2014. This review will make it possible to incorporate into domestic law the Rome Statute of the International Criminal Court, the Geneva Conventions of 1949 and the Protocols additional thereto, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the Convention on the Elimination of All Forms of Discrimination against Women, the United Nations Convention against Transnational Organized Crime and its two supplementary Protocols, as well as other relevant international legal instruments to which Guinea is a party. Some of the issues raised by the Optional Protocol will be taken into consideration in the amended versions of these Guinean laws.

**22. Guinea is a party to the Geneva Conventions of 1949 and their Additional Protocols I and II of 1977, the ILO Worst Forms of Child Labour Convention, 1999 (No. 182), and the Rome Statute of the International Criminal Court.**

**23. The criminal liability of legal persons, such as private military and security companies**

103. Article 429 (3) of the Children’s Code addresses these issues in the following terms: “Public- and private-sector employees will be held criminally liable, with aggravating circumstances, if found guilty of acts violating the physical and mental integrity of children.”



104. Insofar as it relates to the implementation of the Optional Protocol, Guinean law does not address the criminal liability of legal persons. However, this concern will be taken into account during the review of the Children's Code and the Criminal Code, and during the current reform of the defence and security forces.

105. In Guinea, there are private security firms that deal only with the protection of private homes, NGOs and domestic and international institutions, corporations and private property.

**24. Legal provisions that establish jurisdiction over the acts and offences referred to in articles 1, 2 and 4 of the Optional Protocol**

106. Guinean law prohibits the enlistment of children under the age of 18 years in the national armed forces and in armed groups. Guinean courts, on the basis of the territoriality principle, have jurisdiction in this respect.

**25. National legal provisions providing for the establishment of extraterritorial jurisdiction over violations of international humanitarian law**

107. This matter is addressed in the Code of Military Justice of 2012. Article 18 of the Code, for example, provides that:

The military courts are competent to examine and pass judgment on ordinary offences committed by members of the armed forces, or equivalent non-combatant personnel in service, in military establishments or at their billet, as well as the military offences established under this Code in accordance with the rules of procedure which apply thereto.

The expression "at their billet" refers to the place where travelling members of the armed forces are accommodated. If travel occurs within the national territory, the expression refers only to the home and annexes of the person hosting the member or members of the armed forces.

If travel occurs in foreign territory, the term refers to any offence committed anywhere in the foreign territory.

108. The provisions of the last paragraph of article 18 of the Code could also cover international crimes committed by military personnel abroad (including the recruitment and use of children in armed conflict), as defined by the Rome Statute of the International Criminal Court, to which Guinea has been a party since 2003.

**26. Law, policy and practice of the State party concerning the extradition of persons accused of having committed offences referred to in the Optional Protocol**

109. Title XVII, in chapters I, II and III, of the Code of Criminal Procedure deals with extradition. Article 653, in particular, provides that: "Where no relevant treaty applies, the conditions, procedures for and consequences of extradition, as well as any other aspects not expressly regulated by any such treaties, shall be determined by the provisions of the present law."

110. In addition to provisions of the Code of Criminal Procedure dealing with extradition, Guinea is a party to Convention A/P.1/8/94 on Extradition of the Economic Community of West African States, adopted in Abuja in 1994.

## V. Protection, recovery and reintegration (art. 6 (3))

### 27. Rights and best interests of children who have been victims of practices prohibited under the Optional Protocol

111. Article 2 (2) of the Children's Code states that the best interests of the child must be the primary consideration in all actions concerning children taken by public or private institutions, courts of law or administrative authorities.

112. In 2002, in Guéckédou, this principle was fully implemented as part of a project, run by the Ministry of Social Action with the support of UNICEF and the German Agency for International Cooperation, for the demobilization/social and occupational reintegration of 250 child volunteers. The same is true of the project for the social and occupational reintegration of 945 young recruits from Kaléya, including 714 girls, funded by UNICEF through the United Nations Peacebuilding Fund.

### 28. Measures taken to provide training for those who work with child victims of the offences prohibited in the Optional Protocol

113. In 2010/2011, as part of the implementation of Project SELECT, ChildFund Guinea organized capacity-building workshops on the implementation of the Children's Code for magistrates and police officers in Kindia Prefecture.

### 29. Public and private demobilization programmes that provide child victims of recruitment with assistance in social reintegration

114. On the initiative of the Ministry of Social Action, the Advancement of Women and Children's Affairs, a demobilization and social and occupational reintegration project has been put in place in the prefectures of Kissidougou and Guéckédou. The project involved only 350 children, the youngest, who received vocational training in eight employment sectors, namely, sheet metalworking, dressmaking, electricity, masonry, information technology, agriculture, trade and carpentry. This project has been funded by UNICEF with technical assistance from the German Agency for International Cooperation.

115. The demobilized young people of Kaléya have entered a social and occupational reintegration process, the first phase of which was initiated by the Ministry of Youth and Youth Employment. The second phase of the project, involving the NGO Monde des enfants, has already begun.

### 30. Measures taken to ensure that the child's identity is protected

116. Articles 392 to 395 of the Children's Code address the protection of victims and witnesses. Article 392, in particular, states: "Notwithstanding any provisions to the contrary, child victims of the offences covered by this section shall not be subject to prosecution and conviction."

### 31. Chapter VI, articles 431, 432 and 434 to 439, of the Children's Code provides for all possible safeguards with regard to the protection of refugee, displaced or separated children. Article 435, for instance, reads as follows:

Children under 15 years of age deprived of liberty for reasons related to an armed conflict shall enjoy the protection to which they are entitled under international humanitarian law.

In particular:

- Parents or persons having custody of a child must be informed of his/her arrest, detention or confinement as soon as possible;
- Children shall be kept in premises separate from those of adults, except where families are accommodated as family units;
- Children shall enjoy material conditions of detention or confinement appropriate to their age;
- Children shall receive an education, including religious and moral education, in keeping with the wishes of their parents or those responsible for their care;
- Children who are subject to legal proceedings shall have the right to free legal assistance as soon as possible.

117. The aim of Act No. L/2000/012/AN, the Refugees Act, is to protect all refugees in Guinea who come under the mandate of the Office of the United Nations High Commissioner for Refugees and who meet the criteria set out in article 1 of the Convention relating to the Status of Refugees of 28 July 1951, as supplemented by its 1967 Protocol, and in the Organization of African Unity Convention Governing the Specific Aspects of Refugee Problems in Africa of 1969.

- 32. Victims may appeal to the courts, through the implementation of international instruments and international law.**

## **VI. International assistance and cooperation (art. 7 (1))**

- 33. In 2002, Guinea received support from UNICEF for the social and occupational reintegration of 350 children, who had been among the young self-defence volunteers during the rebel incursions into Guinea. Similar support was provided to the 1,600 young recruits from Kaléya, who in 2013 received vocational and entrepreneurship reintegration training through the Ministry of Youth and Youth Employment, with financing from the United Nations Peacebuilding Fund.**

- 34. Guinea is a State party to the Economic Community of West African States (ECOWAS) Convention on Small Arms and Light Weapons, Their Ammunition and Other Related Materials, adopted on 14 June 2006 in Abuja, Nigeria.**

118. This Convention prohibits arms transfers by member States, subject to possible exemptions for the purpose of legitimate defence and security needs, the maintenance of law and order or use in supporting peacekeeping operations. The Convention bans, without exception, all transfers of weapons to non-State actors that are not explicitly authorized by the importing State.

119. While recognizing the major role of civil society organizations in the fight against the proliferation of small arms and light weapons, the Convention establishes national commissions responsible for coordinating the fight against the proliferation of small arms and light weapons at national level and a group of independent experts to monitor and evaluate the implementation of the Convention.

120. In Guinea, a national commission to combat the proliferation of small arms and light weapons has been established and is operational, while Act No. 008 of 22 March 1996, the Weapons, Ammunition, Gunpowder and Explosives Act, regulates the manufacture, trade, import, possession and bearing of arms in Guinea.

35. Not applicable.

36. Not applicable.

## VII. Other legal provisions (art. 5)

### 37. Provisions of domestic and international law and the status of ratification of international humanitarian law instruments

#### (a)

121. The provisions of the Optional Protocol are consistent with the provisions of domestic law in Guinea, including articles 431 to 437 of the Children's Code, which establish guarantees of protection for refugee children, separated children and children affected by armed conflict, and Act No. L/2000/012/AN, the Refugees Act, which allows the intake of asylum seekers without discrimination and the granting of refugee status to those who meet the necessary conditions, including unaccompanied children.

#### (b)

122. All provisions of international law remain binding, as they have been ratified without reservation and are not incompatible with the implementation of the Optional Protocol on the involvement of children in armed conflict.

#### (c)

#### *Status of ratification of the main international instruments of humanitarian law*

123. Guinea has acceded to regional and international conventions, treaties and charters, including the following:

- African Charter on the Rights and Welfare of the Child, ratified on 27 May 1999;
- Organization of African Unity Convention Governing the Specific Aspects of Refugee Problems in Africa, signed on 10 September 1969 in Addis Ababa;
- Bilateral cooperation agreement between Guinea and Mali on combating trafficking in children, signed on 16 June 2005;
- Multilateral cooperation agreement between Guinea and eight other countries of the subregion — namely, Côte d'Ivoire, Liberia, Burkina Faso, Niger, Mali, Togo, Nigeria and Sierra Leone;
- African Union Non-Aggression and Common Defence Pact;
- ILO Worst Forms of Child Labour Convention, 1999 (No. 182), ratified on 10 December 2001;
- Hague Convention on Protection of Children and Cooperation in respect of Intercountry Adoption, 27 May 1999;
- Hague Convention on the Civil Aspects of International Child Abduction, accession on 25 October 2011;
- Rome Statute of the International Criminal Court, adopted on 18 July 1998;
- Geneva Conventions of 12 August 1949;

- Convention relating to the Status of Refugees, adopted in Geneva on 28 July 1951, and the Protocol relating to the Status of Refugees, concluded in New York on 31 January 1967.

## VIII. Conclusion

124. Guinea is a party to the Convention on the Rights of the Child and the Optional Protocol on the involvement of children in armed conflict, which was ratified on 10 December 2001 by Act No. L/2001/020/AN of 10 December 2001 and entered into force in 2011. Its implementation is taking place against a backdrop of general renewal, with the reform of the defence and security forces supported by the United Nations and other partners, the review of the provisions of the Children's Code, Act No. L/2000/012/AN of 10 August 2000 (the Refugees Act), the General Military Personnel Regulations and the establishment of a military justice system that takes into consideration the provisions of the Optional Protocol.

125. Before the entry into force of the Optional Protocol in Guinea, practical steps, starting in 2002, were taken for its broad dissemination in its original form in the various administrative regions of the country and for its incorporation, through the adoption of the Children's Code in August 2008, into domestic law.

126. A great deal of effort has been made to promote the rights of the child as they relate to the provisions of the Optional Protocol, including transposing them into the Children's Code Act; establishing a national refugee monitoring and integration commission, which includes a standing committee on eligibility; and building the capacity of the administrative authorities, the defence and security forces and partners on the ground involved in the international protection of refugees, with the assistance naturally of the Office of the United Nations High Commissioner for Refugees, and ensuring the international protection of refugees and the protection of children before, during and after armed conflict, with the support of Save the Children Sweden, ECOWAS and the NGO Sabou-Guinée.

127. In 2006 and 2014, training modules on the rights of the child that take into account the provisions of the Optional Protocol were developed and included in the training curriculum of the police, gendarmerie and military academies.

128. In the future, Guinea will continue disseminating the provisions of the Optional Protocol nationwide by organizing awareness-raising and training meetings for all relevant actors, and in particular by strengthening peacebuilding efforts, a major factor in the prevention of conflict. In addition, some of the provisions of the Optional Protocol and the Rome Statute of the International Criminal Court will be taken into account in the current review of key domestic legal texts aimed at better protecting children against involvement in armed conflict.

## **Annex**

Code of Military Justice

General Military Personnel Regulations

Refugees Act

Weapons, Ammunition, Gunpowder and Explosives Act

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