



**Convention on the
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**WRITTEN REPLIES BY THE GOVERNMENT OF KAZAKHSTAN
CONCERNING THE LIST OF ISSUES (CRC/C/OPAC/KAZ/Q/1)
RECEIVED BY THE COMMITTEE ON THE RIGHTS OF THE
CHILD RELATING TO THE CONSIDERATION OF THE
INITIAL REPORT OF KAZAKHSTAN 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 (CRC/C/OPAC/KAZ/1)***

[Replies received on 21 August 2006]

* In accordance with the information transmitted to States parties regarding the processing of their reports, the present document was not formally edited before being sent to the United Nations translation services.

Information provided in response to the questions from the Committee on the Rights of the Child relating to implementation by Kazakhstan of the provisions of the Optional Protocol on the Involvement of Children in Armed Conflict

Question: Please inform the Committee whether the age of conscription can be lowered during states of emergency or armed conflict.

Answer: Under article 23 of the Kazakh Military Obligation and Military Service Act of 8 July 2005, citizens aged between 18 and 27 years of age are liable for military conscription.

Under the terms of article 5, paragraph 11, of the Kazakh Defence and Armed Forces Act of 7 January 2005 and article 26 of the Military Obligation and Military Service Act, the conscription of citizens for military service under mobilization or in times of war is effected on the basis of a decree by the President and in accordance with the procedure laid down in the Military Obligation and Military Service Act.

There is no provision in Kazakh law for lowering the age of conscription during states of emergency or armed conflict.

Question: Please provide data for 2003-2006 on budget allocations and trends (in percentages of the national and regional budgets or gross domestic product) allocated to the implementation of the Protocol.

Answer: In accordance with compulsory State requirements, the subject "Basic military training" is taught in the senior classes of all educational establishments. During their basic military training classes, pupils are taught respect for human rights, they learn to develop feelings of patriotism, they cover the rudiments of military training and they study legal and regulatory texts, including the laws of the Republic of Kazakhstan dealing with the armed forces and the provisions of the Optional Protocol on Involvement of Children in Armed Conflict.

Every year, at national and local centres for the further training of teachers, courses are held for teachers of basic military training, covering Kazakh legislation and the provisions of the Optional Protocol.

In 2006, more than 13 million tenge was earmarked for the conduct of these courses, 8 million of which was drawn from the State budget and 5 million from local budgets.

Every year the country's teacher training colleges run courses for teachers of basic military training. In 2006, more than 116 million tenge was allocated for these courses.

Question: Please inform the Committee of the minimum age for voluntary recruitment and of incentives used to encourage volunteers to join the armed forces.

Answer: Under article 38 of the Convention on the Rights of the Child of 20 November 1989, States parties are obliged to respect and to ensure respect for rules of international humanitarian law applicable to them in armed conflicts which are relevant to the child. States parties shall take all feasible measures to ensure that persons who have not attained the age of 15 years do not take a direct part in hostilities. States parties shall refrain from

recruiting any person who has not attained the age of 15 years into their armed forces. In recruiting among those persons who have attained the age of 15 years but who have not attained the age of 18 years, States parties shall endeavour to give priority to those who are oldest.

Question: The Committee would appreciate receiving information regarding the number of children attending military schools and further details of the school curricula, e.g. the age at which practice with weapons begins. In addition, please provide information on the percentage of graduates who join the armed forces.

Answer: According to official figures provided by the education authorities, at the beginning of the 2005/06 school year, some 4,000 children, or 0.01 per cent of the country's total school-going population, were attending military schools at different levels and of the various types and profiles. According to recent data, some 65 per cent of the pupils finishing these schools opt for the career of regular officers in the military.

In compliance with the laws and regulations in force in Kazakhstan, the Jas Ulan national military school enrolls children from the ages of 12 or 13, and the national military boarding schools take boys from the ages of 15 or 16. The decision to enrol children at these schools and for them to learn the rudiments of military service is voluntary and taken by parents and the children themselves. The military boarding schools are general education schools and, under Kazakh law, pupils at the schools may not be involved in armed conflicts or other activities of a military nature.

Following the basic military training syllabus and the military school curricula, pupils start learning to handle and use firearms (airguns, rifles from the Tula Armoury and Kalashnikov assault rifles) from the ages of 16 or 17. Currently, in all educational establishments (schools and colleges of various types) shooting skills and techniques are taught with the use of air rifles.

Question: The Committee would like to receive information about any impartial complaints and investigations mechanisms that are available for children attending military schools, and on how frequently such mechanisms are used.

Answer: Military boarding schools operate under the Kazakh Education Act, the standard rules for the operation of educational organizations providing secondary level general education and the statutes of the schools themselves.

In educational organizations of a military profile, no unlawful actions involving pupils or cadets are permitted and violations of the rights of such pupils and cadets are dealt with in the manner prescribed by Kazakh law.

Question: With reference to the existing provisions of the Kazak Criminal Code on recruitment of children, as indicated in paragraph 14 of the State party's report, please inform the Committee how such cases have been investigated since the Protocol came into force.

Answer: There have been no cases of children being recruited into military service since the Protocol has come into force.

Question: Does Kazakhstan intend to become a State party to the Rome Statute of the International Criminal Court?

Answer: The Ministry of Foreign Affairs of the Republic of Kazakhstan is the body competent to answer that question.

Question: Has Kazakhstan assumed extraterritorial jurisdiction over war crimes that involve conscripting or enlisting children under the age of 15 in the armed forces or using them to participate actively in hostilities? In the case that extraterritorial jurisdiction has been assumed, is there a requirement of double criminality for such offences?

Answer: Under the provisions of article 162 of the Kazakh Criminal Code, the recruitment, training, financing or other material support of a mercenary or the use of a mercenary in an armed conflict or military action shall be punishable as a criminal offence.

Under article 6 of the Criminal Code, any person who commits an offence in the territory of the Republic of Kazakhstan shall be held responsible for his or her act under the Code. "Offence committed in the territory of the Republic of Kazakhstan" is taken to mean an act which was initiated, continued or completed in the territory of the Republic of Kazakhstan.

This provision applies equally to Kazakh citizens, stateless persons and foreign citizens. The only exceptions are the diplomatic representatives of foreign States and other persons enjoying immunity, since the question of their liability is dealt with under international law.

Question: Also in relation to extraterritorial jurisdiction, does the State party consider making recruitment or involvement of a person under the age of 18 years outside of its territory a crime when committed by or against a person who is a citizen of, or has other links with, Kazakhstan?

Answer: Where the said crimes are committed outside the territory of Kazakhstan, the extraterritorial effect of the criminal law of the Republic of Kazakhstan is determined by article 7 of the country's Criminal Code, which stipulates that foreigners who commit an offence outside the Republic of Kazakhstan shall be held responsible for their act if their offence is directed against the interests of the Republic of Kazakhstan, as well as in cases provided for in international treaties signed by Kazakhstan, provided that they have not been convicted in another State and are brought to trial in the territory of the Republic of Kazakhstan.

Where there is no applicable international treaty, the question of prosecuting foreigners for criminal offences may be dealt with on the basis of the principle of reciprocity provided under international law.

Accordingly, it is our view that the Republic of Kazakhstan has adopted the principle of extraterritorial jurisdiction in respect of military offences of the kind in question involving minors, but that aspects of the application of this principle should be brought into line with international law and, in addition, with the rules of the criminal law of the country in whose territory or by whose citizens the offence has been committed.

Question: Please provide further information on physical and psychological recovery and social reintegration programmes for asylum-seeking, refugee and migrant children in Kazakhstan who may have been involved in or affected by armed conflicts.

Answer: Pursuant to government decision No. 408 of 16 March 2000 on the establishment of social reintegration centres for homeless persons, there are 21 such centres in operation in the country, each accommodating between 50 and 150 persons.

The centres provide the following services: temporary accommodation for the homeless; a range of social, domestic and medical services; creating conditions for vocational activities; a variety of measures for the moral and psychological rehabilitation of residents of the centres; helping them complete the necessary formalities and find work; and setting up production workshops with a view to promoting their social and vocational rehabilitation and reintegration.

The issues of refugees, migrant workers and ethnic migrants are dealt with by the Migration Committee of the Ministry of Labour and Social Welfare.

Kazakhstan's migration policy is based on the country's Constitution, the Migration Act No. 204-1 of 13 December 1997, presidential decrees Nos. 2337 of 19 June 1995 on the legal status of foreigners and 3057 of 15 July 1996 on the procedure for according political asylum to foreigners and stateless persons in the Republic of Kazakhstan and on other laws and regulations, which are all consistent with the rules of international law.

Work involving refugees is based on articles of the Kazakh Migration Act and on provisions of the 1951 Convention relating to the Status of Refugees and its 1967 Protocol.

The Republic of Kazakhstan officially acceded to the 1951 Convention relating to the Status of Refugees and its 1967 Protocol on 15 December 1998, thereby assuming specific obligations to the international community regarding refugees.

An official procedure for dealing with persons applying for the status of refugees and the determination of their status was brought into operation under the Kazakh Migration Act on 20 April 1998.

Most refugees underwent official registration in 1998.

The status of refugees in the Republic of Kazakhstan is accorded to foreigners who apply to the Kazakh authorities for recognition as refugees, who have justified fears that they might be subjected to persecution for their political views, race or religious beliefs or on the grounds of their citizenship, nationality or affiliation to specific social groups and who are forced to remain outside their countries of citizenship and have no recourse to the protection of their own countries or do not seek such protection because of those fears, or stateless persons who find themselves outside the country of their usual residence and who are unable or do not wish to return to those countries because of such fears.

In 2005, according to figures provided by the Ministry of Labour and Social Welfare, there were more than 600 registered refugees in the Republic of Kazakhstan, including 248 children.

The persons accorded the status of refugees are, for the most part, Tajiks, Pushtus, Khazars and Uzbeks.

Almost all refugees - 89.1 per cent, to be precise - reside in the city of Almaty, while the remainder are to be found in Southern Kazakhstan province and one family of five persons in the province of Karaganda. Of these refugees, 106 have higher and unfinished higher education and 41 secondary specialized education.

Apart from according refugees the legal right to reside in its territory, the Republic of Kazakhstan does not provide any other form of material assistance. Most refugees work in various jobs and support themselves. Those in more precarious situations receive assistance from such international organizations as the Office of the United Nations High Commissioner for Refugees (UNHCR) through its office in Kazakhstan, the Red Crescent Society and others.

Pursuant to the requirements of the Kazakh Code of Administrative Offences, compliance by refugees with the residential regulations is continuously monitored and monthly consultations and advisory meetings are held with representatives of voluntary associations working on the legal protection of refugees. In conducting such work, the regional offices of the Migration Committee work in close coordination and cooperation with the UNHCR office in Kazakhstan, the International Organization for Migration, and such non-governmental organizations as the Kazakhstan International Bureau for Human Rights and the Rule of Law, the voluntary association Kazakhstan Legal Aid to Refugees, the Red Crescent Society and the Kazakh Children's Fund.
