



# Convention on the Rights of the Child

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## Committee on the Rights of the Child

### **Concluding observations on the initial report of Burkina Faso submitted under article 8 of the Optional Protocol to the Convention on the involvement of children in armed conflict, adopted by the Committee at its sixty-second session (14 January–1 February 2013)**

1. The Committee considered the initial report of Burkina Faso (CRC/C/OPAC/BFA/1) at its 1766th and 1767th meetings (see CRC/C/SR/1766-1767), held on 21 January 2013, and adopted the following concluding observations at its 1784th meeting, held on 1 February 2013.

#### **I. Introduction**

2. The Committee welcomes the submission of the State party's initial report and its written replies to the list of issues (CRC/C/OPAC/BFA/Q/1/Add.1). The Committee appreciates the constructive dialogue with the State party's multisectoral delegation.

3. The Committee reminds the State party that the present concluding observations should be read in conjunction with the concluding observations on the State party's combined third and fourth periodic reports under the Convention (CRC/BFA/CO/3-4) as well as those on the initial report under the Optional Protocol on the sale of children, child prostitution and child pornography (CRC/C/OPSC/BFA/CO/1, 2013).

#### **II. General observations**

##### **Positive aspects**

4. The Committee further notes with appreciation the following legislative measures:

(a) Presidential Decree No. 2009-894/PRES, which enacted Act No. 052-2009/AN of 3 December 2009 incorporating the Rome Statute of the International Criminal Court into Burkinabe law;

(b) Act No. 037-2008/AN of 29 May 2008, according to which no persons under the age of 18 can be voluntarily recruited in the national armed forces and Decree No. 560 of 5 July 2012 which raises the minimum age for conscription to 20.

5. The Committee welcomes the accession or ratification by the State party of the Protocol against the Illicit Manufacturing of and Trafficking in Firearms, Their Parts and

Components and Ammunition, supplementing the United Nations Convention against Transnational Organized Crime, in May 2002.

### III. General measures of implementation

#### Coordination

6. While noting that the Permanent Secretariat of the National Council for the Survival, Protection and Development of Children collaborates with its decentralized structures and with the Ministry of Defence for the implementation of the Optional Protocol, the Committee is concerned about the lack of information regarding the resources of the Permanent Secretariat and the lack of effective coordination between the relevant agencies at national level and the decentralized regional agencies.

**7. The Committee reiterates its previous recommendation under the Convention (CRC/C/BFA/CO/3-4, para. 11, 2010) that all necessary measures be taken to ensure effective coordination for the implementation of the Optional Protocol, including with the decentralized agencies, and to provide sufficient human, technical and financial resources to the coordination mechanism. It invites the State party to include information in this regard in its next periodic report.**

#### Dissemination and awareness-raising

8. While noting the State party's efforts to disseminate the Optional Protocol, such as the publication of materials on the rights of the child which refer to the Optional Protocol, the Committee is concerned that these efforts mainly targeted the national armed forces and were not sufficiently directed at the children themselves. It notes further that awareness of the principles and provisions of the Optional Protocol is low among the general public.

**9. Pursuant to article 6, paragraph 2, of the Optional Protocol, the Committee recommends that the State party enhance its efforts to make the principles and provisions of the Optional Protocol widely known to the public at large, and children in particular, including through greater involvement of the media in awareness-raising programmes.**

#### Training

10. While noting that training was organized for members of Parliament on children's rights, as well as for armed forces at all levels on children's rights and international humanitarian law, the Committee regrets the lack of specific training on the provisions of the Optional Protocol in the curricula provided to military and law-enforcement personnel, including those involved in international peacekeeping operations.

**11. The Committee recommends that the Optional Protocol be systematically included in the training of all relevant professional groups, in particular the armed forces and members of international peacekeeping forces, law-enforcement and immigration officers, prosecutors, lawyers, judges, social workers, medical professionals, teachers, media professionals and local and district officials.**

#### Data

12. The Committee regrets the lack of data relating to children, as regards the acts covered by the Optional Protocol, in particular on asylum-seeking, refugee, migrant and unaccompanied children present within its jurisdiction, who may have been recruited or used in hostilities.

13. **In the light of its concluding observations under the Convention (CRC/C/BFA/CO/3-4, para. 19, 2010), the Committee recommends that the State party establish a mechanism for the comprehensive collection of data, disaggregated by sex, age, nationality, ethnic origin and socioeconomic background, on all areas relevant for the implementation of the Optional Protocol, in particular to identify and register all asylum-seeking, refugee, migrant and unaccompanied children under the State party's jurisdiction.**

## **IV. Prevention**

### **Prevention of recruitment by non-State armed groups**

14. The Committee is concerned that the State party has undertaken insufficient measures to prevent the recruitment of Burkinabe children by non-State armed groups present near the State party's border with Mali.

15. **The Committee urges the State party to take more effective measures to ensure that no children on its territory are recruited by non-State armed groups as a result of the ongoing armed conflict in Mali, including by closely controlling its borders and mobilizing communities. The State party should consider seeking technical assistance from, inter alia, the United Nations Children's Fund (UNICEF).**

### **Age verification procedures**

16. While taking note that the State party has established procedures to verify the ages of incoming recruits, the Committee remains concerned at the low level of birth registration in the State party and the lack of measures in place to detect forged documents, which may impact on the effectiveness of these procedures.

17. **The Committee underlines the importance of birth registration as a preventive measure and reiterates its recommendation under the Convention (CRC/C/BFA/CO/3-4, para. 35, 2010) to continue and strengthen its efforts to establish a national system of free birth registration for all children. It further calls on the State party to take all necessary measures to detect the use of forged documents by persons under the age of 18.**

### **Military schools**

18. While noting that the Kadiogo Military Academy enrolls both boys and girls, the Committee is concerned that girls may be subject to inequitable treatment and gender discrimination. The Committee also notes that the Ministry of Education approved the programmes and courses of the Academy and appointed the teachers. However, it is concerned that the Academy remains under the supervision of the national armed forces, which consequently report directly to the Ministry of Defence. Further, although children enrolled are not trained in the use of weapons, the Committee is concerned that military discipline is included in the curricula of children as young as 11 years old and that they do not have access to a complaints mechanism.

19. **The Committee recommends that the State party:**

(a) **Take all the necessary steps to guarantee equal treatment between boys and girls;**

(b) **Ensure that the Kadiogo Military Academy, currently under the responsibility of the Ministry of Defence, be placed under the supervision of the Ministry of Education;**

(c) **Ensure that children who study in the Kadiogo Military Academy are considered as civilians until they turn 18; and**

(d) **Set up an adequate system to provide children with access to independent and gender-sensitive complaints and investigation mechanisms, which protect boys and girls equally.**

#### **Human rights and peace education**

20. While noting that, pursuant to the reform of the education system undertaken in 2007, courses on civic education and child's rights were introduced into school curricula, the Committee is concerned that there are no programmes to systematically incorporate peace education into school curricula.

21. **With reference to its general comment No. 1 on the aims of education (CRC/GC/2001/1), the Committee recommends that the State party, pursuant to its educational reform, consider including peace education in school curricula at all levels, with special reference to crimes covered by the Optional Protocol.**

## **V. Prohibition and related matters**

#### **Criminal legislation and regulations in force**

22. The Committee notes with appreciation that the State party's legislation, without exceptions and in any circumstances, prohibits the recruitment of persons under the age of 18 years into its national armed forces and that the Criminal Code, Code of Criminal Procedure and Code of Military Justice are being reviewed. The Committee also welcomes the enactment of comprehensive legislation which includes, as war crimes, the conscription or enlistment of children under the age of 18 or their use in hostilities (Act No. 052-2009/AN of 3 December 2009 enacted in 2010 through presidential decree No. 2009-894/PRES). However, the Committee is deeply concerned that the State party considers it not to be applicable at present. In addition, the Committee regrets that the State party's legislation does not provide for:

(a) An explicit provision defining the crime of recruitment and use of children under 18 years in the national armed forces in peacetime;

(b) An explicit prohibition and definition of the crimes of recruitment and use of children under 18 years by non-State armed groups and security companies; and

(c) A definition of direct participation in hostilities.

23. **The Committee recommends that the State party :**

(a) **Take all necessary measures to effectively enforce Act No. 052-2009/AN of 3 December 2009; and**

(b) **Accelerate the revision process of its Criminal Code with a view to swiftly amending it and include an explicit criminalization of the recruitment and use of persons under 18 years in the national armed forces, non-State armed groups and security companies, attempt, repeat offence and complicity in such acts, as well as a definition of direct participation in hostilities.**

#### **Extraterritorial jurisdiction and extradition**

24. While welcoming that article 15 of Act No. 052-2009/AN of 3 December 2009 enables the State party to establish and exercise universal jurisdiction for the war crimes of conscripting or enlisting children under the age of 18 years, or using them to participate

directly in hostilities, the Committee regrets the alleged inapplicability of this legislation. The Committee also regrets the State party's position that its judicial cooperation agreements regarding criminal proceedings and extradition are not applicable because acts covered by the Optional Protocol do not amount to criminal offences in the State party. Further, the Committee is concerned that extradition is subject to the double criminality requirement.

25. **The Committee urges the State party to:**

(a) **Take all necessary measures to ensure that the State party effectively exercises its universal jurisdiction regarding crimes covered by the Optional Protocol, including prosecution of perpetrators who may be on its territory as a result of the armed conflict in neighbouring Mali;**

(b) **Consider the acts covered by the Optional Protocol as criminal offences and, as such, include them in extradition agreements; and**

(c) **Repeal the double criminality requirement.**

## **VI. Protection, recovery and reintegration**

### **Measures adopted to protect the rights of child victims**

26. The Committee notes the information provided by the State party that there are no child victims of acts prohibited by the Optional Protocol on its territory. However, in the light of the ongoing conflict in neighbouring Mali which, as acknowledged by the State party delegation, has resulted in an increasing number of asylum-seeking, refugee and migrant children within the State party's jurisdiction, the Committee is concerned about the lack of mechanisms in place for identifying children who might have been recruited or used in armed conflict abroad. The Committee also expresses concern about the lack of awareness in the State party about the need for such identification.

27. **In accordance with its obligations under article 7 of the Optional Protocol, the Committee urges the State party to take all necessary measures to identify children who may have been involved in armed conflict and to:**

(a) **Establish an identification mechanism for asylum-seeking, refugee or migrant children, who may have been involved in armed conflict abroad, and ensure that personnel responsible for such identification are trained on child rights, child protection and child-sensitive interviewing skills;**

(b) **Set up a monitoring mechanism which allows family members to report cases of children who are missing; and**

(c) **Provide children who have been or may have been involved in armed conflict with appropriate assistance for their physical and psychological recovery and their social reintegration.**

## **VII. International assistance and cooperation**

### **International cooperation**

28. **The Committee notes as positive the State party's contribution to and participation in United Nations and African Union peacekeeping operations. The Committee further recommends that the State party continue and strengthen its cooperation with the International Committee of the Red Cross (ICRC) and with the Special Representative of the Secretary-General for Children and Armed Conflict.**

## **VIII. Follow-up and dissemination**

29. The Committee recommends that the State party take all appropriate measures to ensure full implementation of the present recommendations by, inter alia, transmitting them to the Parliament, relevant ministries, including the Ministry of Defence, the Supreme Court, and to local authorities, for appropriate consideration and further action.

30. The Committee recommends that the initial report and written replies submitted by the State party and the related concluding observations adopted by the Committee be made widely available, including (but not exclusively) through the Internet, to the public at large, civil society organizations, youth groups, professional groups and children, in order to generate debate and awareness of the Optional Protocol, its implementation and monitoring.

## **IX. Next report**

31. In accordance with article 8, paragraph 2, the Committee requests the State party to include further information on the implementation of the Optional Protocol and the present concluding observations in its next periodic report under the Convention on the Rights of the Child, in accordance with article 44 of the Convention, due on 29 September 2017.

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